UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

GE HFS HOLDINGS, INC., f/k/a)	
HELLER HEALTHCARE FINANCE, INC.,)	
Plaintiff)	
and)	
MICHAEL INGOLDSBY,)	CIVIL ACTION
Intervenor / Plaintiff)	05-CV-11128-NG
vs.)	
)	
NATIONAL UNION FIRE INSURANCE COMPANY)	
OF PITTSBURGH, PA and)	
INTERNATIONAL INSURANCE GROUP, LTD.,)	
Defendants)	

MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT INTERNATIONAL INSURANCE GROUP, LTD.'S MOTION FOR SUMMARY JUDGMENT

The defendant, International Insurance Group, Ltd. ("I.I.G.") submits the foregoing Memorandum of Law in support of their Motion for Summary

Judgment directed to the claims of the Intervenor/Plaintiff, Michael Ingoldsby (hereafter referred to as "Plaintiff" or "Ingoldsby").

FACTS

I.I.G. began doing business with Managed Health Care Systems, Inc. (M.H.C.S.") in 2000. I.I.G. placed directors and officers liability/employment practices liability insurance for M.H.C.S. with a policy from National Union Fire Insurance Company of Pittsburgh, PA ("National Union"). This initial policy, as well as the subsequent renewal, was placed through a wholesaler, Carpenter

Moore Insurance Services, Inc. The policy ran from August 4, 2000 until August 4, 2001.

The policy was renewed the following year, effective on August 4, 2001. In the time period leading up to the renewal, I.I.G. received a renewal quote from Carpenter which was faxed to M.H.C.S. along with a letter dated July 31, 2001. The contents of this fax in their entirety are attached as **Exhibit A**. The fax, which was sent by Nicholas Sciotto of I.I.G. to Pamela Jones of M.H.C.S., included a four (4) page attachment titled "For-Profit Health Care Organization Amendatory Endorsement." Section II of this attachment, titled "Amendments to Exclusions," contains the following change with regard to an exclusion for contractual liability.

- 1. Exclusions 4 (h) is deleted in its entirety and replaced with the following: [The insurer shall not be liable to make any payment for Loss...]
- (h) alleging, arising out of, based upon or attributable to any actual or alleged contractual liability of the company or an Insured under any express (written or oral) contract or agreement (including, but not limited to, any liquidated damages, severance agreement or payment, golden parachute agreement, or any compensation agreement payable upon the termination of any insured); provided however, that this exclusion shall not apply to:
 - (1) Employment Practices Claims to the extent that any liability does arise from such express contact or agreement; or
 - (2) Claims for Loss alleging Wrongful Acts of an insured(s) with respect to hospital practices, privileges, credentialing or peer review matters.

M.H.C.S. accepted the renewal proposal and coverage was bound as of August 4, 2001. The entire policy, including declarations, forms and

endorsements, was received by I.I.G. on January 2, 2002 and forwarded to M.H.C.S. on January 4, 2002. A "final version" of the policy was received by I.I.G. on January 11, 2002 and sent to M.H.C.S. on January 21, 2002. Both versions of the policy sent to M.C.H.S. contained the "Exclusion 4(h)" referenced in the July 31, 2001 letter, **Exhibit A**.

M.H.C.S. filed for bankruptcy, initially under Chapter 11 (reorganization) and then under Chapter 7 (liquidation). Heller Healthcare Finance, Inc., ("Heller") a secured creditor of M.H.C.S., filed suit against M.H.C.S. and its directors and officers, including Intervenor/Plaintiff Michael Ingoldsby ("Ingoldsby"). Heller brought suit against Ingoldsby, a shareholder of M.H.C.S., for fraudulently misrepresenting Medicaid reimbursement certifications that were presented as security for various lines of credit.

National Union denied coverage to M.H.C.S. and Ingoldsby because the Heller lawsuit arose from a funding contract, which was excluded under the "contractual liability exclusion" of the Directors & Officers policy. In November of 2005, I.I.G. produced their file in response to a subpoena from Ingoldsby in connection with the Heller litigation. In December of 2005, Ingoldsby impleaded I.I.G. into the case, claiming that "[u]pon information and belief, the Renewal Proposal provided by International did not include a copy of endorsement No. 8, which amended exclusion 4(h) and, in doing so, limited coverage related to claims arising from contractual liability. See Ingoldsby Complaint at ¶14. This

allegation was reiterated by Ingoldsby in an Affidavit dated September 18, 2006, in which he stated:

- 9. On or about July 31, 2001, IIG provided MHCS with National Union's Renewal Proposal (the "Proposal") which detailed, among other items, endorsements to be added to the base policy.
- 10. The policy provided by IIG did not include a copy of Endorsement No. 8, which amended Exclusion 4(h) and, in doing so, limited coverage related to claims arising from contractual liability. In addition, the copy of the Policy which I received was not bound.

See Ingoldsby Affidavit, **Exhibit B**. Accordingly, Ingoldsby 's position in this lawsuit was that I.I.G. did not advise M.H.C.S. of the contractual liability exclusion.

However, Ingoldsby was recently deposed on October 20, 2006. During the deposition, Ingoldsby testified concerning M.H.C.S.'s notice of the contractual liability exclusion at issue in this case:

- Q. Do you believe that the copy that you received [of the National Union Renewal Proposal] was a copy that someone at the MHCS office had made and then sent to you?
- A. Oh, yes.
- Q. Can you tell me what the basis is for the first sentence of paragraph ten of your affidavit?
- A. The copy that I got didn't have that endorsement. When I wrote this up, that was my belief, that wasn't there. I think that's all that means.
- Q. It's your testimony that the copy you received did not have Endorsement 8 [the contractual liability exclusion]. Do you know for a fact whether the copy that was provided by IIG to MHCS included a copy of Endorsement 8?
- A. I later learned that it was included.

Deposition of Michael Ingoldsby, p. 88, l. 5-18, attached as **Exhibit C**.

ARGUMENT

The Court should grant summary judgment to I.I.G. because Ingoldsby has not stated a prima facie claim against I.I.G. First and foremost, Ingoldsby is no longer claiming that I.I.G. did not inform M.H.C.S. of the subject exclusion, as he conceded in his deposition that he was mistaken when he made this allegation. Second, I.I.G. did not have a duty to advise M.H.C.S. as to what insurance coverage they should purchase. It is equally clear that I.I.G. did not have a duty to advise Ingoldsby himself as to what coverage to purchase, as I.I.G. had no contact whatsoever with Ingoldsby aside from a brief introductory meeting.

A party moving for summary judgment, in a case in which the opposing party will have the burden of proof at trial, is entitled to summary judgment "if he demonstrates, by reference to material described in Mass. R. Civ. P. 56 (c), unmet by countervailing materials, that the party opposing the motion has no reasonable expectation of proving an essential element of that party's case."

Kourouvacilis v. General Motors Corp., 410 Mass. 706, 716 (1991).

In accordance with Rule 56, summary judgment must be granted to the moving party where there is no genuine issue of material fact and where the party is entitled to judgment as a matter of law. One of the principal purposes of the summary judgment rule "is to isolate and dispose of factually unsupported

claims or defenses . . . it should be interpreted in a way that allows it to accomplish this purpose." <u>Kourouvacilis</u>, 410 Mass. at 716 (quoting <u>Celotex</u> Corp. v. Catrett, 477 U.S. 317, 323-24 (1986)).

Since Ingoldsby has admitted that M.H.C.S. was notified of the contractual liability exclusion at issue in this case, there are no material facts in dispute with regard to Ingoldsby's claim against I.I.G. As a matter of law, I.I.G. met their duty of care as the insurance broker for M.H.C.S. Ingoldsby will not be able to produce any evidence to support his claims against I.I.G. for violation of M.G.L. c. 93A/176D (Count III), Fraud/Deceit (Count IV) and Negligent Misrepresentation (Count V).

A. INGOLDSBY IS NO LONGER CLAIMING THAT HE WAS NOT AWARE OF THE CONTRACTUAL LIABILITY EXCLUSION

By his own admission, Ingoldsby has abandoned the allegation that I.I.G. did not advise M.H.C.S. of the existence of the contractual liability exclusion. Ingoldsby previously alleged in his Complaint, as well as his September 18, 2006 affidavit, that the July 31, 2001 fax from I.I.G. to M.H.C.S. did not include the page with Amended Exclusion 4(h) (the contractual liability exclusion). This allegation formed the basis of the three Counts against I.I.G. contained in Ingoldsby's Amended Complaint.

Ingoldsby alleged that M.H.C.S. did not receive notice of the contractual liability exclusion despite several facts which proved this allegation to be

incorrect. Most noteably, the fax confirmation sheet for the 7-31-01 letter from I.I.G. to M.H.C.S. (attached as the last page to Exhibit A) shows that eleven (11) pages were transmitted on 7-31-01. (Which is the total number of pages which were faxed to M.H.C.S. by I.I.G.) This evidence, in and of itself, showed that M.H.C.S. did in fact receive every page of this fax, including the page containing the contractual liability exclusion. Moreover, the entire policy, including the subject exclusion, was forwarded to M.H.C.S. on two subsequent occasions, on 1-04-02 and again on 1-21-02. Finally, the policy for the prior year contained an identical exclusion relative to contractual liability.

Nevertheless, Ingoldsby has now confirmed that although he previously believed this allegation to be true, he now knows that the information regarding the For-Profit Health Care Organization Amendatory Endorsements, including the Amendments to Exclusions, was in fact contained in the 7-31-01 letter from I.I.G. to M.H.C.S. It appears that his mistake was based upon the fact that said Amendments to Exclusions may have been omitted when M.H.C.S. forwarded the 7-31-01 letter to Ingoldsby. Since Ingoldsby admits that I.I.G.'s 7-31-01 letter did in fact contain all of the information about the Amendments to Exclusions, including the contractual liability exclusion, Ingoldsby will not be able to prove fraud/deceit or negligent misrepresentation against I.I.G.

B. I.I.G. DID NOT HAVE A DUTY TO ADVISE INGOLDSBY WITH RESPECT TO INSURANCE COVERAGE.

Insurance agents owe a duty to proceed in accordance with their customers' instructions. Rayden Engineering Corp. v. Church, 337 Mass. 652, 660 (1958). The agent must use "reasonable skill and ordinary diligence" in carrying out these instructions. Hartford Nat'l Bank & Trust Co. v. United Truck Leasing Corp., 24 Mass. App. Ct. 626, 630, review denied, 400 Mass. 1106 (1987). This duty does not require the agent to ensure that the customer understands the terms of the insurance agreement. Baldwin Crane & Equipment Corp. v. Riley & Riley Insurance Agency, Inc., 44 Mass. App. Ct. 29, 32 (1997) (insurance agent had no duty to ensure that insured understood the meaning of "minimum premium" as set forth in the policy).

As a general rule, an insurance agent has no duty to investigate a customer's need for insurance coverage or to advise the customer about the availability of insurance products to meet his or her particular needs. On the contrary, the customary relationship between an insurance agent and the customer is that of vendor and vendee:

Ordinarily, of course, an insurance agent assumes only those duties normally found in any agency relationship, including the obligation to deal with his principal in good faith and to carry out instructions, and he assumes no duty to advise merely by such a relationship.

16 A.J. APPLEMAN, INSURANCE LAW AND PRACTICE § 8836, at 64 (1981).

This is the rule of law adopted by the Appeals Court of Massachusetts.

Robinson v. Charles A. Flynn Insurance Agency, Inc., 39 Mass. App. Ct. 902-903

(1995). In Robinson, plaintiffs alleged that their insurance agent owed a general duty "to inform and advise them as to the availability of uninsured and underinsured motor vehicle coverage up to the limits of the bodily injury liability coverage the clients carried." In affirming the trial court's award of a directed verdict in favor of the agent, the Appeals Court held that "[s]uch a sweeping duty finds no support" in Massachusetts law, absent "special circumstances of reliance." Id. at 902-903. Further confirming its position on agent liability, the Appeals Court expressly stated that the relationship between an insurance broker and the insured is not fiduciary in nature. Baldwin Crane & Equipment Corp. v. Riley & Riley Insurance Agency, Inc., 44 Mass. App. Ct. 29, 31-32 (1997).

As a matter of law, I.I.G. did not have the broad duty to advise M.H.C.S. as to the appropriate coverage to carry simply because I.I.G. acted as their insurance broker. Further, they had no duty to advise Ingoldsby as they had no relationship with him at all. Ingoldsby would have to prove that there were "special circumstances" of "assertion, representation and reliance" between himself and I.I.G., which created a heightened duty to advise on the part of the broker. Based upon the evidence presented, Ingoldsby cannot possibly sustain that burden.

An insurance agent may be held liable for negligence in failing to properly advise his customer if the agent specifically undertakes to render such advice, or

where there are "special circumstances of assertion, representation and reliance" between the agent and the customer. See <u>Bicknell, Inc. v. Havlin</u>, 9 Mass. App. Ct. 497, 500-01 (1980); See also <u>Rapp v. Lester L. Burdick, Inc.</u>, 336 Mass. 438, 442 (1957), quoted with approval in <u>McCue v. Prudential Ins. Co. of America</u>, 371 Mass. 659, 661 (1976). There are no such "special circumstances" presented in this case. Ingoldsby cannot, in good faith, seriously contend that he or his company was relying on I.I.G. to give him advice as to the appropriate coverage to purchase, or that there were otherwise "special circumstances of assertion, representation and reliance."

CONCLUSION

Since Ingoldsby has admitted that I.I.G. did in fact notify M.H.C.S. of the contractual liability exclusion, the plaintiff cannot establish that I.I.G. was negligent in failing to advise M.H.C.S. of the exclusion. Even if Ingoldsby had not made this recent admission, the evidence overwhelmingly proves that M.H.C.S. was informed of the exclusion several times. I.I.G. submits that they have no liability to Ingoldsby, under any of the claims in his Complaint or any other theory that he could conceivably plead. For all of these reasons, I.I.G. respectfully requests that the Court allow their Motion for Summary Judgment.

Respectfully submitted,

INTERNATIONAL INSURANCE GROUP, LTD., Defendant By their Attorneys:

/s/ Syd A. Saloman Syd A. Saloman - BBO #645267 TUCKER, HEIFETZ & SALTZMAN, LLP 100 Franklin Street, Suite 801 Boston, MA 02110 617-557-9696

EXHIBIT A

Case 1::05-cv-111128-NG

Document 70-2

Filed 11//10/2006

Page 2 of 13

HP LASERJET 3150 PRINTER/FAX/COPIER/SCANNER

JD CONFIRMATION REPORT FOR LINTERNATIONAL INSURANCE GROUP 617-951-3940 JUL-31-01 11:47AM

6	·	- Particular following from the Control				ninitari de la companya de la compa			TO THE STREET OF THE STREET	>	
J	ов	START	TIME	USAGE	PHONE N	IUMBER/ADDRESS	TYPE	PAGES	MODE	STATUS	
4	09	7/31	11:44AM	2'44"		17817402203	SEND	11/11	EC144	COMPLETED	

TOTAL

2'44"

PAGES SENT: 11 PAGES PRINTED: 0

125 Broad Street, 4th Ft. Boston, MA 02110 Tel 617-951-3939 x133 Fax 617-951-3940





Pam Jones

From: Nicholas F. Sciolio, AU, ARM, AIS

Director of Account Service

Managed Health Care Systems

Pregosi Cover + 10

781-740-2293

Deter July 31, 2001

D&O - EPL Renewal

☐ Urgent X For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Let me know if you have any questions. Presumably, you will add this premium to the current PAC finance agreement. We will probably have to execute another Bankruptcy form as we did with the Package Policy.

125 Broad Street, 4th Fl. Boston, MA 02110 Tel 617-951-3939 x133 Fax 617-951-3940





To:

Pam Jones

From: Nicholas F. Sciotto, AU, ARM, AIS

Director of Account Service

Managed Health Care Systems

Pages: Cover + 10

Fax:

781-740-2203

Date:

July 31, 2001

Re:

D&O - EPL Renewal

CC:

□ Urgent

X For Review

☐ Please Comment

☐ Please Reply

☐ Please Recycle

Let me know if you have any questions. Presumably, you will add this premium to the current PAC finance agreement. We will probably have to execute another Bankruptcy form as we did with the Package Policy.



July 27, 2001

Nicholas F. Sciotto International Insurance Group, LTD 125 Broad Street 4th Floor Boston, MA 02110

Managed Health Care Systems RE:

Directors and Officers Liability Insurance including Employment Practices Liability (EPL)

Document 70-2

August 4, 2001

Dear Nicolas:

On behalf of National Union, a member of the American International Group, Inc., we are pleased to provide you with a renewal quote for the above captioned account. The current marketplace for Directors and Officers Liability Insurance is becoming more restrictive in coverage, pricing and retentions are increasing at renewals as well as for new business. The healthcare marketplace in particularly is experiencing these "hard" market trends of volatile premiums and restrictive terms and conditions. It is not uncommon to see premium increases of 10% for stellar risks, to increases of 50% for risks with unenviable balance sheets. This trend follows a decade of decreasing premiums, lowered retentions, broadening terms and conditions - traits of the "soft" market. Managed Health Care Systems has filed for Chapter 11 bankruptcy since the last renewal, as well, the financial condition remains poor, albeit improving slightly. Through active negotiations with National Union, we were able to obtain a renewal proposal with a 17% increase, a remarkably reasonable increase given the dynamics since last renewal.

Additionally, for 2001 AIG has mandated that a revised Health Care Amendatory endorsement be placed on all Health Care risks. We have ensured that there are no exceptions. This endorsement differs from the expiring endorsement for Managed Health Care Systems. The new revised endorsement includes an enhancement for IRS Fines and Penalties coverage. This is in addition to the expiring enhancements such as an amended Insured Person definition to include Peer Review/Credentialing, independent contractors, department heads; EMTALA coverage; and Government Funding Defense Costs. The limitations this endorsement introduces this renewal are: a sub limit on EMTALA coverage of \$150,000; failure to maintain insurance exclusion; "antitrust, price fixing, price discrimination, unfair competition, deceptive trade practices and/or monopolies, including any actions, proceedings, claims or investigations relating thereto" exclusion; human clinical trials exclusion; and pre-authorized defense attorneys "panel counsel" for

all claims - last year panel counsel was required for Securities claims only. Finally, there are language changes with the new endorsement, however; the coverage essentially remains the same.

Lastly, at renewal AIG has added a limited private placement coverage endorsement that adds an exclusion for "public or private offering of securities by the Company..." however, the exclusion carves back coverage for private offerings of securities if less than or equal to \$15,000,000.

After you have had an opportunity to review, please call with any questions.

Regards,

Thomas J. McGraw

National Union Renewal Proposal

INSURER:	National Union Fire Insurance Company of Pittsburgh, PA
	Admitted Carrier / A++ A.M. Best "Superior"
POLICY FORM:	Private Edge
COVERAGE:	Corporate Liability Policy including Directors and Officers Liability Insurance and Employment Practices Liability Coverage
POLICY TERM:	August 4, 2001 to August 4, 2002
LIMITS OF LIABILITY ¹ :	\$3,000,000
RETENTIONS:	\$35,000 each Claim for Employment Practices Liability; \$150,000 each Claim for Securities Claims (other than Private Placements); \$25,000 All other Claims (including Private Placements).
PREMIUM:	\$24,995
DISCOVERY:	One year optional discovery period will be available for 75% of the annual premium.
RETROACTIVE DATE:	Date of Incorporation

Endorsements to be added in addition to the base policy:

- 1. Outside Entity Coverage;
- 2. Captive Insurance Company;
- 3. Commissions Exclusions;
- 4. Nuclear Energy Liability Exclusion Endorsement (Broad Form);
- 5. Specific Investigation/Claim/Litigation/Event same as expiring;
- 6. Final Determination Wording.

Endorsement added at renewal:

1. For-Profit Health Care Organization Extension –2001 Version. This endorsement is mandatory by National Union/AIG on all health care risks. This endorsement replaces the Health Care Extension, Endorsement No. 5 on the expiring program. Please read this endorsement carefully;

¹ Limit of Liability applies each Claim or related Claims and in the policy aggregate (inclusive of defense expenses).



2. Auto Private Placement Coverage threshold limited to \$15M in proceeds. This endorsement limits Private Placements to \$15M for automatic coverage and is included in coverage for no additional premium.

Lastly, no additional limits of liability are available from AIG.

Subjectivities:

The quotation is subject to receipt, review and acceptance prior to binding of the following:

- 1. Board of Directors;
- 2. Most recent audited financials;
- 3. Confirmation of a business plan in place to maintain operations.



FOR-PROFIT HEALTH CARE ORGANIZATION AMENDATORY ENDORSEMENT

In consideration of the premium charged, it is hereby understood and agreed that this policy is amended as follows:

i. AMENDMENTS TO DEFINITIONS

A. The Definition of Individual Insured(s) shall be amended to include the following at the end thereof:

Individual Insureds shall also include any past, present or future member of any duly constituted committee ("Committee Member"); any individual person engaged by a duly constituted committee for purposes of providing an expert opinion with regard to peer review or credentialling decision concerning an individual physician ("Outside Expert"); any individual in charge of any operational department ("Department Head") or any medical director, staff physician or faculty member of the Company, regardless of whether or not such person is directly employed by the Company or is considered to be an independent contractor.

B. The Definition of Loss shall be amended to include the following at the end thereof:

1, IRS FINES

Loss shall include Defense Costs incurred in connection with a Claim seeking an assessment of taxes, initial taxes, additional taxes, tax deficiencies, excise taxes or penalties pursuant to the following sections of the Internal Revenue Code of 1986 (as amended):

Section 4911 (tax on excess expenditures to influence legislation);

Section 4940 (a):

Section 4941 (taxes on self-dealing);

Section 4942 (taxes on failure to distribute income);

Section 4943 (taxes on excess business holding);

Section 4944 (taxes on investments which jeopardize charitable purpose);

Section 4945 (taxes on taxable expenditures);

Section 6652 (c) (1) (A) and (B) (penalties for failure to file certain information returns or registration statements);

Section 6655 (a) (1) (penalties for failure to pay estimated income tax); and

Section 6656 (a) and (b) (penalties for failure to make deposit of taxes).

2. EMTALA COVERAGE

- a. The definition of Claim(s) is amended to include the following: Claim shall also mean a civil lawsuit alleging a violation pursuant to the Emergency Medical Treatment and Active Labor Act ("EMTALA"), 42 U.S.C., 1396dd et seq., and any similar state or local statute (herein "EMTALA Claim(s)").
- b. The Definition of Loss is amended to include coverage for civil fines and penalties assessed pursuant to an EMTALA Claim.
- c. It is further understood that a sublimit of liability in the amount of \$150,000 shall apply to all EMTALA Claims made and reported during the Policy Period or Discovery Period (if applicable) combined (hereinafter "Sublimit of Liability"). This Sub-Limit of Liability shall be part of and not in addition to the aggregate Limit of Liability stated in the Item of the Declarations entitled Limit of Liability.
- d. Solely for the purposes of the coverage afforded herein to EMTALA Claims, exclusion (I) is modified by deleting the phrase "alleging, arising out of, based upon or attributable to" and replacing it with the word "for".

3. GOVERNMENTAL FUNDING DEFENSE COST COVERAGE

Loss shall not include the return of funds which were received from any federal, state or local governmental agency and any interest, fines or penalties arising out of the return of such funds; provided, however, that with regard to Claims for Wrongful Acts arising out of the return, or request to return such funds, this policy shall pay Defense Costs up to an amount not to exceed \$1,000,000 ("Government Funding Defense Costs Sublimit"). This Sub-Limit of Liability shall be part of and not in addition to the aggregate Limit of Liability stated in the Item of the Declarations entitled Limit of Liability. With respect to any Defense Costs coverage afforded pursuant to this paragraph 3, it is understood that: the Insurer shall be liable to pay 50% of such Defense Costs, excess of a retention in the amount of \$1,000,000, up to the Government Funding Defense Costs Sublimit, and subject to the Limit of Liability listed on the Declarations Page. It being a condition of this insurance that the remaining 50% of such Defense Costs shall be carried by the Insureds at their own risk and be uninsured.

It is further understood and agreed that solely with respect to the Governmental Funding Defense Cost coverage provided pursuant to the above paragraph, the No Liability retention waivers located in the section of the policy entitled RETENTION CLAUSE are deleted in their entirety.

C. The Definition of Wrongful Act is amended to include the following at the end thereof:

With respect to all Insureds, any alleged defect in peer review or credentialling.

AMENDMENTS TO EXCLUSIONS in and

- 1. Exclusions 4 (h) is deleted in its entirety and replaced with the following:
 - (h) alleging, arising out of, based upon or attributable to any actual or alleged contractual liability of the Company or an Insured under any express (written or oral) contract or agreement (including, but not limited to, any liquidated damages, severance agreement or payment, golden parachute agreement, or any compensation agreement payable upon the termination of any Insured); provided, however, that this exclusion shall not apply to:
 - (1) Employment Practices Claims to the extent that any liability does not arise from such express contract or agreement; or
 - (2) Claims for Loss alleging Wrongful Acts of an Insured(s) with respect to hospital practice, privileges, credentialling or peer review matters.
- 2. The following additional exclusions are added to the end of Clause 4. EXCLUSIONS:
 - (r) alleging, arising out of, based upon or attributable to any failure or omission on the part of the Insureds or the Company to effect and maintain insurance;
 - (s) alleging, arising out of, based upon or attributable to, or in any way involving, either directly or indirectly, antitrust violations, price fixing, price discriminations, unfair competition, deceptive trade practices and/or monopolies, including any actions, proceedings, claims or investigations related thereto;
 - (t) alleging, arising out of, based upon or attributable to the Insureds performance or rendering of or failure to perform or render medical or other professional services or treatments for others; provided, however, that this exclusion shall not apply to:
 - (1) Employment Practices Claims;
 - (2) Claims for Loss alleging Wrongful Acts of an Insured(s) peer review or credentialling processes;
 - (u) alleging, arising out of, based upon or attributable to any Human Clinical Trial. For purposes of this exclusion (u), "Human Clinical Trial" shall mean any study utilizing humans to provide clinical data for the assessment of a medical treatment, procedure or pharmaceutical.

III. AMENDED CLAUSE 9

Clause 9 is deleted in its entirety and replaced with the following:

9. PRE-AUTHORIZED DEFENSE ATTORNEYS FOR ALL CLAIMS

This Clause 9 applies to all Claims.

Affixed as Appendix A hereto and made a part of this policy is a list or lists of Panel Counsel law firms ("Panel Counsel Firms") from which a selection of legal counsel shall be made to conduct the defense of all Claims against an Insured pursuant to the terms set forth below.

In the event the Insurer has assumed the defense pursuant to Clause 8 of this policy, then the Insurer shall select a Panel Counsel Firm to defend the Insureds. In the event the Insureds are already defending a Claim, then the Insureds shall select a Panel Counsel Firm to defend the Insureds.

The selection of the Panel Counsel Firm, whether done by the Insurer or the Insureds, shall be from the list of Panel Counsel Firms designated for the type of Claim and be from the jurisdiction in which the Claim is brought. In the event a Claim is brought in a jurisdiction not included on the appropriate list, the selection shall be made from a listed jurisdiction which is the nearest geographic jurisdiction to either where the Claim is maintained or where the corporate headquarters or state of formation of the Named Entity is located. In such instance, however, the Insurer shall, at the written request of the Named Entity, assign a non-Panel Counsel Firm of the Insurer's choice in the jurisdiction in which the Claim is brought to function as "local counsel" on the Claim to assist the Panel Counsel Firm which will function as "lead counsel" in conducting the defense of the Claim.

With the express prior written consent of the Insurer, an Insured may select (in the case of the Insured defending the Claim), or cause the Insurer to select (in the case of the Insurer defending the Claim), a Panel Counsel Firm different from that selected by other Insured defendants if such selection is required due to an actual conflict of interest or is otherwise reasonably justifiable.

The list of Panel Counsel Firms may be amended from time to time by the Insurer. However, no change shall be made to the specific list attached to this policy during the Policy Period without the consent of the Named Entity.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

EXCLUSION J AMENDED (LIMITED PRIVATE PLACEMENT COVERAGE)

In consideration of the premium charged herein it is understood and agreed that Clause 4. EXCLUSIONS, is hereby amended by deleting Exclusion (j) in its entirety and replacing it with the following:

(j) alleging, arising out of, based upon or attributable to any public or private offering of securities by the Company, an Outside Entity or an Affiliate or alleging a purchase or sale of such securities subsequent to such offering;

provided, however, that this exclusion will not apply to:

- (1) any purchase or sale of securities exempted pursuant to section 3(b) of the Securities Act of 1933. Coverage for such purchase or sale transaction shall not be conditioned upon payment of any additional premium; however, the Named Entity shall give the Insurer written notice of any public offering exempted pursuant to section 3(b), together with full particulars and as soon as practicable, but not later than 30 days after the effective date of the public offering;
- to any private offering of securities if such private offering is less than or equal to \$xxxxx in proceeds; coverage for such private offering shall not be conditioned upon payment of any additional premium; however, the Named Entity shall give the Insurer written notice of any such private offering together with full particulars and as soon as practicable, but not later than 30 days after the effective date of such private offering;
- (3) to any offering of securities (other than a public offering described in paragraph (1) above or a private offering described in paragraph (2) above), as well as any purchase or sale of such securities subsequent to such offering, in the event that within 30 days prior to the effective time of such offering: (i) the Named Entity shall give the Insurer written notice of such offering together with full particulars and underwriting information required thereto; and (ii) the Named Entity accepts such terms, conditions and additional premium required by the Insurer for such coverage. Such

coverage is also subject to the Named Entity paying when due any such additional premium. In the event the Named Entity gives written notice with full particulars and underwriting information pursuant to (i) above, then the Insurer must offer a quote for coverage under this paragraph;

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

EXHIBIT B

Case 1:05-cv-11128-NG Document 59 Filed 09/21/2006 Page 1 of 6

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

GE HFS HOLDINGS, INC.
Formerly known as
HELLER HEALTHCARE FINANCE,
INC.,

Plaintiff,

and

MICHAEL INGOLDSBY,

Intervenor/Plaintiff,

٧.

NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA, and INTERNATIONAL INSURANCE GROUP, LTD.,

Defendants.

CIVIL ACTION No: 05-CV-11128-NG

AFFIDAVIT OF MICHAEL INGOLDSBY

- I, Michael Ingoldsby, being duly sworn, depose and state as follows:
- 1. I am an individual with a residence at 1863 San Silvestro Drive, Venice, Florida, 34285.
- 2. At all times relevant hereto, I was the Chairman of the Board of Managed Health Care Systems, Inc. ("MHCS"), which was a corporation duly organized and existing under the laws of the Commonwealth of Massachusetts and had its principal place of business at 175 Derby Street, Hingham, Massachusetts.
- 3. As Chairman of the Board, I was not involved in the day-to-day operations of

MHCS. In fact, I had not been involved in the operations of MHCS since 1999 due to a medical condition which disabled me. Since 1999, I have been collecting under a disability policy and have not been involved in the day-to-day operations of MHCS.

- 4. As such, I was not involved in the preparation of the borrowing base certificates submitted to Heller in connection with the DIP Loan.
- 5. In addition, I did not personally do business with Defendants IIG or National Union and was not directly involved with the procurement of insurance coverage.
- 6. At all times material hereto, I was insured for liability under a Directors and Officers Policy of Insurance and Company Reimbursement Policy, issued by National Union Fire Insurance Company of Pittsburgh, PA to Managed Health Care Systems, Inc., being policy number 873-57-52, effective August 4, 2001, through August 4, 2002, which was a renewal of policy number 473-16-30 (hereinafter collectively referred to as the "Policy").
- 7. On or about August 4, 2000, MHCS purchased the Policy issued by National Union, using International Insurance Group, Inc. ("IIG") as its insurance broker.
- 8. The Policy came up for renewal on August 4, 2001.
- 9. On or about July 31, 2001, IIG provided MHCS with National Union's Renewal Proposal (the "Proposal") which detailed, among other items, endorsements to be added to the base policy.
- 10. The Policy provided by IIG did not include a copy of Endorsement No. 8, which amended Exclusion 4(h) and, in doing so, limited coverage related to claims arising from contractual liability. In addition, the copy of the Policy I received was not bound.

Filled 11//10//2006

- 11. Further, as an insured, I was never advised of the inclusion of Endorsement No. 8, which amended Exclusion 4(h), or its implications on the coverage provided by the Policy.
- 12. On or about August 1, 2002, Heller Healthcare Finance, Inc. ("Heller") commenced a civil action in United States District Court for the District of Massachusetts, Civil Action No. 02CV11553 NG (the "Heller Action") against me and subsequently served the "Complaint and Jury Demand," a true and correct copy of which is attached hereto as *Exhibit A*.
- 13. The Heller Complaint alleged claims against me for Negligent Misrepresentation (Count I) and Breach of Guaranty (Count II).
- 14. On August 2, 2002, the "Complaint and Jury Demand" was forwarded to the Defendant, National Union.
- 15. On or about October 11, 2002, the insurer, through counsel, "declined coverage for the *Heller Action* allegations against Michael Ingoldsby, Mary Lee Ingoldsby, and Indy Edwards." A true and correct copy of the October 11, 2002 denial letter is attached hereto as *Exhibit B*.
- 16. Because National Union and IIG failed to adequately disclose Endorsement No. 8 and its amendment of Exclusion 4(h), I had no knowledge of Endorsement No. 8 or Exclusion 4(h) prior to National Union's denial of my claim. More importantly, I had no knowledge of the effect of said endorsement in limiting coverage under the Policy.
- 17. Thereafter, by letter dated March 6, 2003, counsel for National Union again declined coverage by stating that "there [was] no coverage available under the policy for the claims asserted in the *Heller* action against Michael O. Ingoldsby." A true and

Page 4 of 6

Case 1:05-cv-11128-NG

Document 59

Filed 09/21/2006

correct copy of the March 6, 2003 denial letter is attached hereto as Exhibit C.

- 18. By way of letter from counsel, dated March 17, 2004, I made a formal demand to National Union under Mass. Gen. Laws Ch. 93A. National Union again declined coverage by way of letter from counsel, dated April 16, 2004, and, in doing so, again relied upon Exclusion 4(h), as amended by Endorsement No. 8.
- 19. Because National Union denied my claim under the Policy, I bore the cost of my defense of the Heller Action.
- 20. In litigating the claims asserted by Heller over a two-year period, I expended a substantial amount of money in attorneys' fees and costs. Specifically, I incurred legal fees related to the Heller Action in the amount of Nineteen Thousand Three Hundred Ninety Six Dollars and 24/100 (\$19,396.24).
- 21. As a result thereof, on or about December 13, 2002, I filed a petition for relief pursuant to Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court, Middle District of Florida, Tampa Division, case number 02-24824-8C7 (the "Bankruptcy").
- 22. National Union was not a creditor in the Bankruptcy.
- 23. On or about January 2, 2003, I filed my Schedules and Statement of Financial Affairs.
- 24. In my Statement of Financial Affairs, I disclosed that I was a defendant in the Heller Action.
- 25. At that time, I had not contemplated a claim for reimbursement and/or indemnification against National Union because I had not yet incurred any substantial legal fees or suffered any damages. Therefore, I did not list it on my Schedules and

Case 1:05-cv-11128-NG

Document 59

Filed 09/21/2006

Page 5 of 6

Statement of Financial Affairs.

- 26. On or about April 18, 2003, I filed an Amended Schedule and Statement of Affairs.
- 27. At this time, I was still not aware of any potential claim against National Union.
- 28. On or about July 13, 2003, Heller was granted relief from automatic stay in my bankruptcy case. As such, the case began to proceed and I began to accumulate significant legal fees related thereto.
- 29. On or about March 17, 2004, I made a formal demand upon National Union, via counsel, for reimbursement of my defense costs in the Heller Action.
- 30. On or about April 16, 2004, National Union, via counsel, responded to my formal demand letter and again denied coverage.
- 31. Once it became clear that National Union was not going to reimburse me for the defense costs of the Heller Action, the Bankruptcy trustee was notified that I had a potential claim against Nation Union related to the reimbursement of said defense costs.
- 32. I also discussed the potential claim against National Union with my bankruptcy counsel who advised me that I did not need to amend my Statement of Financial Affairs to reflect a potential claim for post-petition expenses.
- 33. As such, I did not omit my claim against National Union from my Statement of Financial Affairs with the intention of defrauding the court or my creditors.
- 34. On or about February 7, 2004, I entered into a Settlement Agreement with Heller. Pursuant to the Settlement Agreement with Heller, I submitted payment to Heller in the amount of One Hundred Twelve Thousand Seven Hundred Sixty Three Dollars and 71/100 (\$112,763.71). I also incurred legal fees related to the Heller Action in the

Case 1:05-cv-11128-NG Filed 09/21/2006 Page 6 of 6 Document 59

amount of Nineteen Thousand Three Hundred Ninety Six Dollars and 24/100 (\$19,396.24).

- I subsequently expended Two Hundred Fifty Thousand Dollars (\$250,000.00) to 35. settle the bankruptcy case and expended an additional One Hundred Thousand Seven Hundred Twenty One Dollars (\$100,721.00) in legal fees.
- In order to cover the costs of the bankruptcy settlement, I was forced to sell my 36. residence in Osprey, Florida, for below market price, resulting in a total loss of Five Hundred Thirty Six Thousand Six Hundred Eighty Eight Dollars (\$536,688.00). I was also forced to refinance the mortgage on my residence located in Hingham, Massachusetts, increasing my indebtedness by Two Hundred Fifty Thousand Dollars (\$250,000.00).

Signed under the pains and penalties of perjury this day of September 2006.

EXHIBIT C

	3
2	A
1 Volume 1 Witness Direct Cross Redirect Recross 3 MICHAEL INGOLDSBY	
2 Exhibits per index 4 (By Mr. Turnilty) 4	
UNITED STATES DISTRICT COURT	New York
DISTRICT OF MASSACHUSETTS Civil Action No. 05-CV-11128-MG 6 EXHIBITS	
5 <u>- All toltol</u>	
7 GB HFS Holdings , Inc. Page 8 Formerly Known As	Annual Control of Cont
Heller Healthcare Finance, Inc., 8 1 Amended and Restated Unconditional Guaranty of Payment and Performance	23
9 2 Debtor-In-Possession Loan and Security	24
11 Nicheel Ingoldsby, 10 Agreement 10 Agreement	<u>-</u>
vs 11 3 Affidavit of Pamela Jones 39	and the second s
National Union Fire Insurance : 12 4 Summary of Schedules 43	
and International Insurance Group, LTD, : Defendants 13 5 Letter of 8/2/02 from Attorney Aceto 4.	5
16 14 6 Letter of 10/11/02 from Mr. O'Neil 58	
DEPOSITION OF MICHAEL INGOLDSBY, a 18 witness called on behalf of the Defendant, taken 15 7 E-Mail, 11/7/02 59	
pursuant to the Federal Rules of Civil Procedure, before 19 Patricia M. Haynes, a Certified Shorthand Reporter and	
Notary Public in and for the Commonwealth of 16 8 Fax with enclosures 61 Massachusetts, CSR No.: 14620F, at the Offices of Edwards, Angell, Palmer & Dodge, LEP, 111 Huntington	
Avenue, Boston, Massachusetts, on Priday, October 20, 2006, commencing at 10:00 a.m.	
22 18 10 Letter of 11/5/02 from Mr. Aceto 65	
58 Batter ymarch Street, Suite 317 24 Boston, Massachusetts 02110 19 11 A/R Transaction Listing 67	
20 12 Settlement Agreement 69	
21 13 First Amended Complaint in Intervention 22 14 National Union Policy 76 23 15 National Union Policy 80 24 16 Affidavit of Mr. Ingoldsby 85	72
. 2	4
APPEARANCES: 1 PROCEEDINGS	
3 2 MICHAEL INBGOLDSBY,	
Edwards, Angell, Palmer & Dodge, LLP	nd testified
4 (By: John Tumilty, Esquire) 111 Huntington Avenue 4 as follows:	
5 Boston, Massachusetts 02199 5 DIRECT EXAMINATION BY MR. TUMILTY:	
Counsel for the Defendant, 6 National Union Fire Insurance Company 6 Q. My name is John Tumilty. I'm one of t	he
7 attorneys here that's representing National Unic	n in the
8 case in which we are here for your deposition to	day.
Johnson & Aceto, P.C. 8 (By: Gregory J. Aceto, Esquire) 9 I'm going to be asking you a series of questions	today.
67 Batterymarch Street, Suite 400 10 I need you to give audible responses b	ecause
9 Boston, Massachusetts 02110 Counsel for the Intervenor/Plaintiff 11 the court reporter can't take down nods of the h	ead or
10 12 shrugs of the shoulders. Do you understand that	it?
11 Tucker, Heifetz & Saltzman, LLP	
(By: Syd A. Saloman, Esquire) 14 Q. If you don't understand a question, I do	on't
12 100 Franklin Street 15 want you to guess or speculate. If you don't un	derstand
Boston, Massachusetts 02110 16 a question, just tell me and I'll try to rephrase it	and
14 do whatever I can to help you understand it or a	isk a
15 16 18 different question.	
17 19 A. Yes.	
20 Q. Are you on any medications that would	affect
21 your ability to answer questions here today?	
21 22 A. I don't believe so. I'm on a lot of	
22 23 medications. I take medication for memory	related
	ld be some

Case 1:05-cv-11128-NG Document 70-6 Filed 11//10/2006 Page 2 of 28

		Case 1::05-cv-111128-NG Document	t 770 -	10-46 Filled 111//10/2006 Page 3 of 28 7
1	things	I'm just not going to be able to remember.	1	1 Q. But it was specifically for the year from
2	Q.	What medication is that that you take for the	2	2 August of '01 to August of '02.
3	memory	related disorder.	3	3 A. I don't know if that's the case. I mean, I
	Α.	There's two of them, Namenda and Exelon.	4	4 understand that's what you're referring to.
2,5	Q.	Have you been diagnosed as having a memory	5	5 Q. That's all I mean, that that defined term is
6	disorder	?	6	6 something for purposes of the deposition.
7	Α.	Yes.	7	7 MR. ACETO: Yes.
8	Q.	Does that disorder have a name?	8	8 BY MR. TUMILTY:
9	Α.	Well, they call it frontal lobe dementia.	9	9 Q. Have you ever been deposed before?
10	They re	eally don't know whether it's Alzheimer's yet, but	10	10 A. Yes.
11	they ar	e monitoring it at Brigham and Women's.	11	11 Q. How many times?
12	Q.	You're not a doctor, correct?	12	2 A. Four or five.
13	Α.	No.	13	Q. What type of cases were you deposed in?
14	Q.	I understand you're not a doctor, but do you	14	4 A. There was a case that was an unfair
15	know if	the memory related disorder that you have, does	15	5 termination of an employee of that company.
16	it affect	your short-term memory or long-term memory or	16	6 Q. That company being MHCS?
17	both?		17	7 A. Yes.
18	Α.	I mean, I can't answer technically.	18	8 Q. Go ahead.
19	Q.	I understand.	19	9 A. I was in business for years, so I've been
20	Α.	I most definitely have short-term and some	20	0 deposed a number of times.
21	long-te	rm.	21	Q. Were you personally named as a party in any of
22	Q.	What is the name of the doctor at Brigham and	22	those cases?
23	Women'	s that is treating you for this?	23	23 A. Yes.
24	A.	Christopher Wright. He's in the memories	24	Q. What type of case were you personally named as
•		6		8
1	disorde	ers unit.	1	1 a party in?
2	Q.	In order to speed things up a little today, I	2	2 A. It was a termination case, employment relate
3	would lil	ke to use some shorthand terms. I want to agree	3	3 termination case.
4	on them	so we are clear as to what we are talking about.	4	4 Q. To the best of your memory, were you ever
5		If I'm talking about National Union, can we	5	5 named as a party to any of the other lawsuits in which
6	agree I'r	m talking about the National Union Insurance	6	6 you were deposed?
7	Compan	y that provided insurance to you and MHCS?	7	7 A. I think so. I just don't remember.
8	A.	Okay.	8	8 Q. You told me one of those suits was a
9	Q.	And if I talk about MHCS, can we agree that	9	9 termination case. Do you remember the general nature of
10	I'm refe	rring to Managed Healthcare Systems?	10	0 any of the other suits?
11	A.	Yes.	11	·
12	Q.	And if I talk about IIG, do you understand	12	2 sexual harassment claim. There were other employment
13	that to r	mean International Insurance Group?	13	3 related suits that came out of Managed Healthcare. I
14	A.	Okay.	14	e e e e e e e e e e e e e e e e e e e
15	Q.	If I talk about Heller, can we understand that	15	·
		ans Heller Healthcare Finance, Inc.?	16	- ·
16	that mea		17	7 A. Yes.
16 17	that mea	Okay.		
16 17	A. Q.	If I talk about the policy, can we agree that	18	•
16 17	A. Q. I'm refei	If I talk about the policy, can we agree that rring to policy No. 8738752 which was effective	19	9 court or federal court?
16 17 18	A. Q. I'm refei	If I talk about the policy, can we agree that	19 20	9 court or federal court? 0 A. State court. I think we did have, I wasn't a
16 17 18	A. Q. I'm refei	If I talk about the policy, can we agree that rring to policy No. 8738752 which was effective	19 20 21	9 court or federal court? 0 A. State court. I think we did have, I wasn't a 1 defendant but we did have one case that was with a
16 17 18 19	A. Q. I'm refer August 4 A.	If I talk about the policy, can we agree that rring to policy No. 8738752 which was effective 4, '01 to August 4, '02?	19 20 21 22	9 court or federal court? 0 A. State court. I think we did have, I wasn't a 1 defendant but we did have one case that was with a 2 company that was in federal court.
16 17 18 19	A. Q. I'm refer August 4 A.	If I talk about the policy, can we agree that rring to policy No. 8738752 which was effective 4, '01 to August 4, '02? Is that the one that was the directors and	19 20 21	9 court or federal court? 0 A. State court. I think we did have, I wasn't a 1 defendant but we did have one case that was with a 2 company that was in federal court. 3 MR. ACETO: You personally.

		Case 1:05-cv-11128-NG Docume	mt 770- 4	6 Filk	ed 11/10/2006	Page 4 of 28
4	Α.	Oh, no.	1	Α.	It was a banker'	
2	Q.	In any of the lawsuits that you were	2	Q.		your house, the banker's
3		lly named, were you named as a defendant?	3	•	is it somewhere else	
	Α.	Yes.	4	Α.		ight now. It's not even in
	Q.	And in any of those lawsuits in which you were	5	the box	right now, the re	
6	persona	Ily named as a defendant, were you found liable?	6	Q.		at were in the banker's box
7	Α.	Yes.	7	that are	now in the drawer	are at your house?
8	Q.	In which case or cases were you found liable	8	Α.	Yes.	
9	in?		9	Q.	How did you know	your attorney already had the
10	A.	Donald Foster.	10	items yo	ou took out of the bo	ox because he already had
11	Q.	Was that a termination case?	11	them?		
12	A.	That was the termination sexual harassment	12	Α.	Because all of th	e documents came from him.
13	case.		13		MR. ACETO: H	le's referring to me. I
14	Q.	Is that the only case that you were personally	14	represer	nted him in the othe	r case that he's talking
15	found lie	able of to the best of your memory?	15	about or	the company and h	nim. That's how he knows I had
16	A.	I think so. I mean, there may have been	16	them.		
17	others.	Things may have been settled and never, you	17	BY MR.	TUMILTY:	
18	know,	went to court fully. I just don't recall anymore.	18	Q.	Is MHCS still in bu	siness?
19	Q.	Can you tell me what, if anything, you did to	19	A.	No.	
20	prepare	for your deposition today?	20	Q.	•	happened to the corporate
21	A.	Nothing.	21	records	and documents of M	HCS after it went out of
22	Q.	Did you review any documents?	22	business	;?	
23	A.	No.	23	Α.	No.	
24	Q.	Did you consult with anyone other than your	24	Q.	If you had to locate	e those documents, do you
1 .		10			14	12
1	attorney		1 2		o you would ask?	t- N
2	Α.	No.				to the people that ended up
3	Q.	Are you aware that you have produced documents	3		wer the company Who is that?	and start there.
	in this li		5	Q.		
	۸	That I've preduced them?		٨	Overlook	
5	A.	That I've produced them?	6	Α.	Overlook.	located?
6	Q.	Yes.	6	Q.	Where is Overlook	
6	Q. A.	Yes. Yes.	7	Q. A.	Where is Overlook They are in the s	ame building where we used to
6 7 8	Q. A. Q.	Yes. Yes. Or that they have been produced on your behalf	7 8	Q. A. be, but	Where is Overlook They are in the s I don't know whe	ame building where we used to re. I think it's just a branch.
6 7 8 9	Q. A. Q. by your	Yes. Yes. Or that they have been produced on your behalf attorney?	7	Q. A. be, but Q.	Where is Overlook They are in the s I don't know whe Other than the doc	ame building where we used to re. I think it's just a branch. uments that you say that you
6 7 8 9	Q. A. Q.	Yes. Yes. Or that they have been produced on your behalf attorney? Yes.	7 8 9	Q. A. be, but Q. took out	Where is Overlook They are in the s I don't know whe Other than the doc of the box because	ame building where we used to re. I think it's just a branch.
6 7 8 9 10 11	Q. A. Q. by your A.	Yes. Yes. Or that they have been produced on your behalf attorney? Yes. Were you involved in collecting those	7 8 9 10	Q. A. be, but Q. took out	Where is Overlook They are in the s I don't know whe Other than the doc of the box because had them, do you re	ame building where we used to re. I think it's just a branch. uments that you say that you you knew your attorney
6 7 8 9	Q. A. Q. by your A. Q.	Yes. Yes. Or that they have been produced on your behalf attorney? Yes. Were you involved in collecting those	7 8 9 10	Q. A. be, but Q. took out	Where is Overlook They are in the s I don't know whe Other than the doc of the box because had them, do you re	ame building where we used to re. I think it's just a branch. Tuments that you say that you you knew your attorney ecall finding any other
6 7 8 9 10 11 12	Q. A. Q. by your A. Q. docume	Yes. Yes. Or that they have been produced on your behalf attorney? Yes. Were you involved in collecting those ints?	7 8 9 10 11 12	Q. A. be, but Q. took out already I	Where is Overlook They are in the s I don't know whe Other than the doc of the box because had them, do you re hts that you didn't fo	ame building where we used to re. I think it's just a branch. Tuments that you say that you you knew your attorney ecall finding any other
6 7 8 9 10 11 12 13	Q. A. Q. by your A. Q. docume A.	Yes. Yes. Or that they have been produced on your behalf attorney? Yes. Were you involved in collecting those ints? Yes.	7 8 9 10 11 12 13	Q. A. be, but Q. took out already I documer A. Q.	Where is Overlook They are in the s I don't know whe Other than the doc of the box because had them, do you re hts that you didn't fo No. Since you forwarde	ame building where we used to re. I think it's just a branch. Tuments that you say that you you knew your attorney ecall finding any other prward to your attorney?
6 7 8 9 10 11 12 13 14	Q. A. Q. by your A. Q. docume A. Q.	Yes. Yes. Or that they have been produced on your behalf attorney? Yes. Were you involved in collecting those nts? Yes. To turn over to your attorney?	7 8 9 10 11 12 13	Q. A. be, but Q. took out already I documen A. Q. attorney	Where is Overlook They are in the s I don't know whe Other than the doc of the box because had them, do you re hts that you didn't fo No. Since you forwarde	ame building where we used to re. I think it's just a branch. Tuments that you say that you you knew your attorney call finding any other prward to your attorney? The determinant of the power additional documents or any
6 7 8 9 10 11 12 13 14 15	Q. A. Q. by your A. Q. docume A. Q. A.	Yes. Yes. Or that they have been produced on your behalf attorney? Yes. Were you involved in collecting those nts? Yes. To turn over to your attorney? Yes.	7 8 9 10 11 12 13 14	Q. A. be, but Q. took out already I documen A. Q. attorney	Where is Overlook They are in the s I don't know whe Other than the doc of the box because and them, do you re its that you didn't fo No. Since you forwarde , have you found an	ame building where we used to re. I think it's just a branch. Tuments that you say that you you knew your attorney call finding any other prward to your attorney? The determinant of the power additional documents or any
6 7 8 9 10 11 12 13 14 15 16	Q. A. Q. by your A. Q. docume A. Q. A. Q.	Yes. Yes. Or that they have been produced on your behalf attorney? Yes. Were you involved in collecting those nts? Yes. To turn over to your attorney? Yes. Was anyone else involved in that process?	7 8 9 10 11 12 13 14 15	Q. A. be, but Q. took out already I documer A. Q. attorney new documer	Where is Overlook They are in the s I don't know whe Other than the doc of the box because had them, do you re hts that you didn't fo No. Since you forwarde have you found an uments that you have No.	ame building where we used to re. I think it's just a branch. Tuments that you say that you you knew your attorney call finding any other prward to your attorney? The determinant of the power additional documents or any
6 7 8 9 10 11 12 13 14 15 16	Q. A. Q. by your A. Q. docume A. Q. A. Q.	Yes. Yes. Or that they have been produced on your behalf attorney? Yes. Were you involved in collecting those nts? Yes. To turn over to your attorney? Yes. Was anyone else involved in that process? No.	7 8 9 10 11 12 13 14 15 16 17	Q. A. be, but Q. took out already I documer A. Q. attorney new doce A.	Where is Overlook They are in the s I don't know whe Other than the doc of the box because had them, do you re hits that you didn't fo No. Since you forwarde have you found an uments that you hav No. Can you tell me wh	ame building where we used to re. I think it's just a branch. Tuments that you say that you you knew your attorney scall finding any other orward to your attorney? The determinant of the your additional documents or any wen't sent to him?
6 7 8 9 10 11 12 13 14 15 16 17 18	Q. A. Q. by your A. Q. docume A. Q. A. Q.	Yes. Yes. Or that they have been produced on your behalf attorney? Yes. Were you involved in collecting those nts? Yes. To turn over to your attorney? Yes. Was anyone else involved in that process? No. Can you tell me what you did in terms of	7 8 9 10 11 12 13 14 15 16 17 18	Q. A. be, but Q. took out already I documer A. Q. attorney new documer A. Q.	Where is Overlook They are in the s I don't know whe Other than the doc of the box because had them, do you re hts that you didn't fo No. Since you forwarde have you found an uments that you have No. Can you tell me wh I reside in Florida	ame building where we used to re. I think it's just a branch. Tuments that you say that you you knew your attorney recall finding any other prward to your attorney? The dethose documents to your additional documents or any wen't sent to him?
6 7 8 9 10 11 12 13 14 15 16 17 18	Q. A. Q. by your A. Q. docume A. Q. A. Q. A. Q. Collectin	Yes. Yes. Or that they have been produced on your behalf attorney? Yes. Were you involved in collecting those nts? Yes. To turn over to your attorney? Yes. Was anyone else involved in that process? No. Can you tell me what you did in terms of g documents to turn over to your attorney?	7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q. A. be, but Q. took out already I documer A. Q. attorney new documer A. Q. A.	Where is Overlook They are in the s I don't know whe Other than the doc of the box because had them, do you re hts that you didn't fo No. Since you forwarde have you found an uments that you have No. Can you tell me wh I reside in Florida	ame building where we used to re. I think it's just a branch. Juments that you say that you you knew your attorney reall finding any other prward to your attorney? The determinant documents to your you additional documents or any wen't sent to him? The grant was a sachusetts.
6 7 8 9 10 11 12 13 14 15 16 17 18	Q. A. Q. by your A. Q. docume A. Q. A. Q. A. Q. collection A. everyth	Yes. Yes. Or that they have been produced on your behalf attorney? Yes. Were you involved in collecting those nts? Yes. To turn over to your attorney? Yes. Was anyone else involved in that process? No. Can you tell me what you did in terms of g documents to turn over to your attorney? I had a big box of items, and I took	7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q. A. be, but Q. took out already I documer A. Q. attorney new doce A. Q. A. Q.	Where is Overlook They are in the s I don't know whe Other than the doc of the box because had them, do you re hts that you didn't fo No. Since you forwarde , have you found an uments that you hav No. Can you tell me wh I reside in Florida Do you own a hom. No.	ame building where we used to re. I think it's just a branch. Juments that you say that you you knew your attorney reall finding any other prward to your attorney? The determinant documents to your you additional documents or any wen't sent to him? The grant was a sachusetts.
6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q. A. Q. by your A. Q. docume A. Q. A. Q. A. Q. collectin A. everyth	Yes. Yes. Or that they have been produced on your behalf attorney? Yes. Were you involved in collecting those nts? Yes. To turn over to your attorney? Yes. Was anyone else involved in that process? No. Can you tell me what you did in terms of g documents to turn over to your attorney? I had a big box of items, and I took	7 8 9 10 11 12 13 14 15 16 17 18 19 20 v 21	Q. A. be, but Q. took out already I documer A. Q. attorney new documer A. Q. A. Q. A.	Where is Overlook They are in the s I don't know whe Other than the doc of the box because had them, do you re hts that you didn't fo No. Since you forwarde , have you found an uments that you hav No. Can you tell me wh I reside in Florida Do you own a hom. No.	ame building where we used to re. I think it's just a branch. Tuments that you say that you you knew your attorney ecall finding any other prward to your attorney? The definitional documents or any even't sent to him? There you currently reside? The and Massachusetts. The in Massachusetts?
6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q. A. Q. by your A. Q. docume A. Q. A. Q. A. Q. collectin A. everyth	Yes. Yes. Or that they have been produced on your behalf attorney? Yes. Were you involved in collecting those nts? Yes. To turn over to your attorney? Yes. Was anyone else involved in that process? No. Can you tell me what you did in terms of g documents to turn over to your attorney? I had a big box of items, and I took ting out of the box except the things that I knew ady had, which were court motions, and I just erything to him. Is that a big box that you keep at your house?	7 8 9 10 11 12 13 14 15 16 17 18 19 20 v 21 22	Q. A. be, but Q. took out already I documer A. Q. attorney new doct A. Q. A. Q. A. Q. A. Q.	Where is Overlook They are in the s I don't know whe Other than the doc of the box because had them, do you re hts that you didn't fo No. Since you forwarde have you found an uments that you hav No. Can you tell me wh I reside in Florida Do you own a hom No. What's your curren	ame building where we used to re. I think it's just a branch. Tuments that you say that you you knew your attorney ecall finding any other prward to your attorney? The definitional documents or any even't sent to him? There you currently reside? The and Massachusetts. The in Massachusetts?

		Case 1:05-cv-111128-NG Document	710-4	6 File	ed 111//10/2006 Page 5 of 28 15
Total States	A.	Hingham.	4	functio	n.
2	Q.	What is your address in Florida?	2		MR. ACETO: We didn't discuss it at the
3	Α.	1863 San Sylvester Drive, Venice.	3	outset, l	out the usual stipulations, reserve all
	Q.	Do you own that property in Venice, Florida?	Ą	objectio	ns, except as to form, and motions to strike
	Α.	No.	5	until the	time of trial?
3	Q.	Do you currently work?	6		MR. TUMILTY: Yes.
7	A.	No.	7		MR. ACETO: 30 days to read and sign,
8	Q.	When was the last time you were employed?	8	waive th	e notary?
9	Α.	I don't know for sure, but it would be around	9		MR. TUMILTY: Yes.
0	betwee	n '98 and '99.	10	BY MR.	TUMILTY:
1	Q.	Other than bank interest or investment income,	11	Q.	Do any of your disabilities or medical
2	have yo	u been paid in any fashion since '98 or '99 or	12	conditio	ns affect your eyesight?
3	earned i	ncome since that time?	13	Α.	No.
4	Α.	Earned income?	14	Q.	Do any of your disabilities or medical
5	Q.	From a job or consulting or anything like	15	condition	ns affect your ability to read?
6	that?	, , , , , , , , , , , , , , , , , , ,	16	Α.	No.
7	Α.	No.	17	Q <i>.</i>	Have you ever been arrested?
8	Q.	Are you currently out on disability?	18	Α.	No.
9	Α.	Yes.	19	Q.	Ever been convicted of a crime?
0	Q.	Have you been out on disability since	20	Α.	Of a criminal offense?
1		nately 1999?	21	Q.	Yes.
2		Yes.	22	A.	No.
	Α.		23	Q.	Can you just tell me what your education has
23	Q.	And can you tell me what the disability is	24		ce high school, where you went to college?
24	that has	caused you to no longer be employed?	24	Deen Sin	16
		14			In .
71	Δ	Well the whole subject of my memory and some	1	Δ	
1	A.	Well, the whole subject of my memory and some		A. College	Bachelor and master's degree, Saint Francis
2	other fu	unctions that relate mostly to they call it	2	College	Bachelor and master's degree, Saint Francis in Pennsylvania.
3	other fu	unctions that relate mostly to they call it ve function decision process, along with severe	2	College Q.	Bachelor and master's degree, Saint Francis in Pennsylvania. What area of study?
2 3 4	other fu executi depress	unctions that relate mostly to they call it ve function decision process, along with severe sion, has really caused me to be unable to do the	2 3 4	College Q. A.	Bachelor and master's degree, Saint Francis in Pennsylvania. What area of study? Human resource management and economics
2 3 4 5	other for execution depress things	unctions that relate mostly to they call it we function decision process, along with severe sion, has really caused me to be unable to do the used to be able to do.	2 3 4 5	College Q. A. Q.	Bachelor and master's degree, Saint Francis in Pennsylvania. What area of study? Human resource management and economics You graduated, correct?
2 3 4 5 6	other fu executi depress things I	ve functions that relate mostly to they call it ve function decision process, along with severe sion, has really caused me to be unable to do the used to be able to do. I understand you're not a doctor and you're	2 3 4 5 6	College Q. A. Q. A.	Bachelor and master's degree, Saint Francis in Pennsylvania. What area of study? Human resource management and economics You graduated, correct? Yes.
2 3 4 5 6 7	other fuexecution depression things to Q.	ve function decision process, along with severe sion, has really caused me to be unable to do the used to be able to do. I understand you're not a doctor and you're ychologist, but can you explain if you can what	2 3 4 5 6 7	Q. A. Q. A. Q.	Bachelor and master's degree, Saint Francis in Pennsylvania. What area of study? Human resource management and economics You graduated, correct? Yes. And what year was that?
2 3 4 5 6 7 8	execution depression Q. not a pseexecution	ve function decision process, along with severe sion, has really caused me to be unable to do the used to be able to do. I understand you're not a doctor and you're ychologist, but can you explain if you can what e function decision process is or how would you	2 3 4 5 6 7 8	Q. A. Q. A. Q. A. A.	Bachelor and master's degree, Saint Francis in Pennsylvania. What area of study? Human resource management and economics You graduated, correct? Yes. And what year was that? '68.
2 3 4 5 6 7 8 9	other fuexecution depression Q. not a pseexecution describe	ve functions that relate mostly to they call it ve function decision process, along with severe sion, has really caused me to be unable to do the used to be able to do. I understand you're not a doctor and you're yochologist, but can you explain if you can what e function decision process is or how would you it?	2 3 4 5 6 7 8	Q. A. Q. A. Q. A. Q.	Bachelor and master's degree, Saint Francis in Pennsylvania. What area of study? Human resource management and economics You graduated, correct? Yes. And what year was that? '68. Any additional formal schooling after college?
2 3 4 5 6 7 8 9	other fuexecution depresses things in Q. not a pse executive describe A.	ve function decision process, along with severe sion, has really caused me to be unable to do the used to be able to do. I understand you're not a doctor and you're yehologist, but can you explain if you can what e function decision process is or how would you it? All I know is that it relates to making	2 3 4 5 6 7 8 9	Q. A. Q. A. Q. A. Q. A. A.	Bachelor and master's degree, Saint Francis in Pennsylvania. What area of study? Human resource management and economics You graduated, correct? Yes. And what year was that? '68. Any additional formal schooling after college? Just the graduate degree.
2 3 4 5 6 7 8 9 0	other fuexecution depress things I Q. not a ps executive describe A. decision	ve function decision process, along with severe sion, has really caused me to be unable to do the used to be able to do. I understand you're not a doctor and you're yochologist, but can you explain if you can what e function decision process is or how would you it? All I know is that it relates to making and processing data and speech, which most	2 3 4 5 6 7 8 9 10	Q. A. Q. A. Q. A. Q. A. Q.	Bachelor and master's degree, Saint Francis in Pennsylvania. What area of study? Human resource management and economics You graduated, correct? Yes. And what year was that? '68. Any additional formal schooling after college? Just the graduate degree. At Saint Francis also?
2 3 4 5 6 7 8 9 0 1	other fuexecution depress things in Q. not a psexecutive describe A. decision jobs reconstruction and the property of the prop	unctions that relate mostly to they call it ve function decision process, along with severe sion, has really caused me to be unable to do the used to be able to do. I understand you're not a doctor and you're ychologist, but can you explain if you can what e function decision process is or how would you it? All I know is that it relates to making and processing data and speech, which most quire.	2 3 4 5 6 7 8 9 10 11	Q. A. Q. A. Q. A. Q. A. Q. A. A.	Bachelor and master's degree, Saint Francis in Pennsylvania. What area of study? Human resource management and economics You graduated, correct? Yes. And what year was that? '68. Any additional formal schooling after college? Just the graduate degree. At Saint Francis also? Yes, in '68.
2 3 4 5 6 7 8 9 0 1 2 3	other fuexecution depress things It Q. not a ps executive describe A. decision jobs red	ve function decision process, along with severe sion, has really caused me to be unable to do the used to be able to do. I understand you're not a doctor and you're yochologist, but can you explain if you can what e function decision process is or how would you it? All I know is that it relates to making and processing data and speech, which most	2 3 4 5 6 7 8 9 10 11 12 13	Q. A. Q. A. Q. A. Q. A. Q. A. Q. A. Q.	Bachelor and master's degree, Saint Francis in Pennsylvania. What area of study? Human resource management and economics You graduated, correct? Yes. And what year was that? '68. Any additional formal schooling after college? Just the graduate degree. At Saint Francis also? Yes, in '68. Was MHCS the last place you were employed?
2 3 4 5 6 7 8 9 0 1 2 3 4	other fuexecution depress things in Q. not a psexecutive describe A. decision jobs reconstruction and the property of the prop	ve function decision process, along with severe sion, has really caused me to be unable to do the used to be able to do. I understand you're not a doctor and you're you can what e function decision process is or how would you it? All I know is that it relates to making and processing data and speech, which most quire. When were you diagnosed as having these	2 3 4 5 6 7 8 9 10 11 12 13 14	Q. A. Q. A. Q. A. Q. A. Q. A. Q. A. A. A. A. A. A.	Bachelor and master's degree, Saint Francis in Pennsylvania. What area of study? Human resource management and economics You graduated, correct? Yes. And what year was that? '68. Any additional formal schooling after college? Just the graduate degree. At Saint Francis also? Yes, in '68. Was MHCS the last place you were employed? Yes.
2 3 4 5 6 7 8 9 0 1 2 3 4 5	other fuexecution depress things I Q. not a ps executive describe A. decision jobs red Q. things?	ve function decision process, along with severe sion, has really caused me to be unable to do the used to be able to do. I understand you're not a doctor and you're ychologist, but can you explain if you can what e function decision process is or how would you it? All I know is that it relates to making and processing data and speech, which most quire. When were you diagnosed as having these	2 3 4 5 6 7 8 9 10 11 12 13 14 15	Q. A. Q. Q. A. Q. Q. A. Q. Q. A. Q. Q. Q. Q. A. Q.	Bachelor and master's degree, Saint Francis in Pennsylvania. What area of study? Human resource management and economics You graduated, correct? Yes. And what year was that? '68. Any additional formal schooling after college? Just the graduate degree. At Saint Francis also? Yes, in '68. Was MHCS the last place you were employed? Yes. And can you tell me when you first became
2 3 4 5 6 7 8 9 0 1 2 3 4 5	other fuexecution depress things I Q. not a ps executive describe A. decision jobs red Q. things?	ve function decision process, along with severe sion, has really caused me to be unable to do the used to be able to do. I understand you're not a doctor and you're you can what e function decision process is or how would you it? All I know is that it relates to making and processing data and speech, which most quire. When were you diagnosed as having these	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Q. A. Q. Q. A. Q. Q. A. Q. Q. A. Q. Q. Q. Q. A. Q.	Bachelor and master's degree, Saint Francis in Pennsylvania. What area of study? Human resource management and economics You graduated, correct? Yes. And what year was that? '68. Any additional formal schooling after college? Just the graduate degree. At Saint Francis also? Yes, in '68. Was MHCS the last place you were employed? Yes. And can you tell me when you first became with MHCS?
2 3 4 5 6 7 8 9 0 1 2 3 4 5 6	other fuexecution depress things I Q. not a ps executive describe A. decision jobs red Q. things?	ve function decision process, along with severe sion, has really caused me to be unable to do the used to be able to do. I understand you're not a doctor and you're ychologist, but can you explain if you can what e function decision process is or how would you it? All I know is that it relates to making and processing data and speech, which most quire. When were you diagnosed as having these	2 3 4 5 6 7 8 9 10 11 12 13 14 15	Q. A. Q. Q. A. Q. Q. A. Q. Q. A. Q. Q. Q. Q. A. Q.	Bachelor and master's degree, Saint Francis in Pennsylvania. What area of study? Human resource management and economics You graduated, correct? Yes. And what year was that? '68. Any additional formal schooling after college? Just the graduate degree. At Saint Francis also? Yes, in '68. Was MHCS the last place you were employed? Yes. And can you tell me when you first became with MHCS?
2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7	other fuexecution depression Q. not a pseexecution describe A. decision jobs red Q. things? A. in the p	ve function decision process, along with severe sion, has really caused me to be unable to do the used to be able to do. I understand you're not a doctor and you're you're you're not a doctor and you're you're you explain if you can what e function decision process is or how would you it? All I know is that it relates to making and processing data and speech, which most quire. When were you diagnosed as having these At different times, but the memory piece was last three plus years.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. A. Q. A. Q. A. Q. A. Q. A. Q. A.	Bachelor and master's degree, Saint Francis in Pennsylvania. What area of study? Human resource management and economics You graduated, correct? Yes. And what year was that? '68. Any additional formal schooling after college? Just the graduate degree. At Saint Francis also? Yes, in '68. Was MHCS the last place you were employed? Yes. And can you tell me when you first became with MHCS?
2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8	other fuexecution depress things? Q. not a psexecution describe A. decision jobs red Q. things? A. in the pool Q. the disaletted describe pool Q. the disaletted depress of	refunctions that relate mostly to they call it ve function decision process, along with severe sion, has really caused me to be unable to do the used to be able to do. I understand you're not a doctor and you're ychologist, but can you explain if you can what e function decision process is or how would you it? All I know is that it relates to making and processing data and speech, which most quire. When were you diagnosed as having these At different times, but the memory piece was last three plus years. Has any physician ever told you that any of	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q. A. Q. A. Q. A. Q. A. Q. A. Q. A.	Bachelor and master's degree, Saint Francis in Pennsylvania. What area of study? Human resource management and economics You graduated, correct? Yes. And what year was that? '68. Any additional formal schooling after college? Just the graduate degree. At Saint Francis also? Yes, in '68. Was MHCS the last place you were employed? Yes. And can you tell me when you first became with MHCS? I started it sometime in the early '80s, maybe
234567890123456789	other fuexecution depress things? Q. not a psexecution describe A. decision jobs red Q. things? A. in the pour Q. the disaletted is a decision of the pour Q. the disaletted is a decision of the disaletted in the pour Q. the disaletted is a decision of the disaletted is a decision of the pour Q. the disaletted is a decision of the quality of the pour Q. the disaletted is a decision of the quality o	refunctions that relate mostly to they call it ve function decision process, along with severe sion, has really caused me to be unable to do the used to be able to do. I understand you're not a doctor and you're ychologist, but can you explain if you can what e function decision process is or how would you it? All I know is that it relates to making and processing data and speech, which most quire. When were you diagnosed as having these At different times, but the memory piece was ast three plus years. Has any physician ever told you that any of collities that you suffer affect your cognitive	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. A. before,	Bachelor and master's degree, Saint Francis in Pennsylvania. What area of study? Human resource management and economics You graduated, correct? Yes. And what year was that? '68. Any additional formal schooling after college? Just the graduate degree. At Saint Francis also? Yes, in '68. Was MHCS the last place you were employed? Yes. And can you tell me when you first became with MHCS? I started it sometime in the early '80s, maybe maybe '70s.
234567890123456789	other fuexecution depress things? Q. not a psexecution describe A. decision jobs red Q. things? A. in the pour Q. the disaletted is a decision of the pour Q. the disaletted is a decision of the disaletted in the pour Q. the disaletted is a decision of the disaletted is a decision of the pour Q. the disaletted is a decision of the quality of the pour Q. the disaletted is a decision of the quality o	refunctions that relate mostly to they call it ve function decision process, along with severe sion, has really caused me to be unable to do the used to be able to do. I understand you're not a doctor and you're ychologist, but can you explain if you can what e function decision process is or how would you it? All I know is that it relates to making and processing data and speech, which most quire. When were you diagnosed as having these At different times, but the memory piece was ast three plus years. Has any physician ever told you that any of collities that you suffer affect your cognitive or your ability to process information? MR. ACETO: If you understand the	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. A. Q. A. Q. A. Q. A. Q. A. Q. A. Q. before, Q.	Bachelor and master's degree, Saint Francis in Pennsylvania. What area of study? Human resource management and economics You graduated, correct? Yes. And what year was that? '68. Any additional formal schooling after college? Just the graduate degree. At Saint Francis also? Yes, in '68. Was MHCS the last place you were employed? Yes. And can you tell me when you first became with MHCS? I started it sometime in the early '80s, maybe maybe '70s. Did you form MHCS?
2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8 9	other fuexecution depress things? Q. not a psexecution describe A. decision jobs red Q. things? A. in the position decision dec	refunctions that relate mostly to they call it ve function decision process, along with severe sion, has really caused me to be unable to do the used to be able to do. I understand you're not a doctor and you're ychologist, but can you explain if you can what e function decision process is or how would you it? All I know is that it relates to making and processing data and speech, which most quire. When were you diagnosed as having these At different times, but the memory piece was ast three plus years. Has any physician ever told you that any of collities that you suffer affect your cognitive or your ability to process information? MR. ACETO: If you understand the	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q. A. Q. Affiliated A. before, Q. A.	Bachelor and master's degree, Saint Francis in Pennsylvania. What area of study? Human resource management and economics You graduated, correct? Yes. And what year was that? '68. Any additional formal schooling after college? Just the graduate degree. At Saint Francis also? Yes, in '68. Was MHCS the last place you were employed? Yes. And can you tell me when you first became with MHCS? I started it sometime in the early '80s, maybe maybe '70s. Did you form MHCS? Yes.
2 3 4 5 6 7 8	other fuexecution depress things? Q. not a psexecution describe A. decision jobs red Q. things? A. in the position decision dec	refunctions that relate mostly to they call it ve function decision process, along with severe sion, has really caused me to be unable to do the used to be able to do. I understand you're not a doctor and you're ychologist, but can you explain if you can what e function decision process is or how would you it? All I know is that it relates to making and processing data and speech, which most quire. When were you diagnosed as having these At different times, but the memory piece was last three plus years. Has any physician ever told you that any of collities that you suffer affect your cognitive or your ability to process information? MR. ACETO: If you understand the	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q. A. Q. Affiliated A. before, Q. A.	Bachelor and master's degree, Saint Francis in Pennsylvania. What area of study? Human resource management and economics You graduated, correct? Yes. And what year was that? '68. Any additional formal schooling after college? Just the graduate degree. At Saint Francis also? Yes, in '68. Was MHCS the last place you were employed? Yes. And can you tell me when you first became with MHCS? I started it sometime in the early '80s, maybe maybe '70s. Did you form MHCS? Yes. Did anyone else form it with you, did you have

1	Case 1:05-cv-11128-NG Document	70-4	Filed 11//10/2006 Page 6 of 28
1	Q. Can you tell me if you can remember and if you	1	MR. ACETO: Getting a W-2?
2	can go in chronological order what positions you held	2	MR. TUMILTY: Right.
3	with MHCS?	3	BY MR. TUMILTY:
	A. Well, I was really just a board member and	4	Q. In what position were you employed by MHCS?
~/	stockholder for we started it around 1980, and I	5	A. I guess I was the president.
6	remained in that role until probably '92, somewhere	6	Q. When you say you guess you were the president,
7	around that period. And only around '92, '93 did I play	7	are you unsure of whether you were the president?
8	an active role.	8	A. Well, in '95 — I know I wasn't in '95 and '96
9	But even that was not full time. I was not	9	because that's when I had another person that was the
10	involved with the managing of the company at all in the	10	president. It was probably '92 to '95 that I there
11	period of '94 to the late '90s. I may be off on that.	11	was someone else that ultimately was terminated and I
12	And I wasn't involved with any aspect of day-to-day	12	might have stepped in for a short period of time, but it
13	activities from mid '98 forward.	13	wasn't, I wasn't in that role for any long period of
14	Q. Any aspect at all from mid '98 forward?	14	time.
15	A. I had no responsibilities.	15	Q. Do you know who the president of MHCS was in
16	Q. Leaving aside the issue of whether you	16	2000 and 2001?
17	actually had responsibilities, did you have any input	17	A. Indy Edwards.
18	into day-to-day operations of the company at any time	18	Q. Other than being the president of MHCS for
19	from '98 forward?	19	some period of time, were you employed in any other
20	A. Not in terms of operations, no.	20	capacity by MHCS?
21	Q. What input did you have with respect to MHCS	21	A. No, not that I recall?
22	from '98 forward?	22	Q. You were a member of the board of MHCS?
23	A. The only area that I had involvement in was	23	A. Yes.
24	making introductions for banking relationships. I had	24	Q. For what period of time were you a member of
	18		20
۱ .		4	Harbard - CMUCCO
1	no involvement with the aspects of the business and	1	the board of MHCS?
2	health care providing.	2	A. I think the entire time of existence.
2	health care providing. MR. ACETO: I need to talk to him about an	2	A. I think the entire time of existence. Q. Were you chairman of the board the entire time
2 3 4	health care providing. MR. ACETO: I need to talk to him about an issue.	2 3 4	A. I think the entire time of existence. Q. Were you chairman of the board the entire time that MHCS existed?
2 3 4 5	health care providing. MR. ACETO: I need to talk to him about an issue. (Witness confers with counsel.)	2 3 4 5	A. I think the entire time of existence. Q. Were you chairman of the board the entire time that MHCS existed? A. I believe so.
2 3 4 5 6	health care providing. MR. ACETO: I need to talk to him about an issue. (Witness confers with counsel.) BY MR. TUMILTY:	2 3 4 5 6	 A. I think the entire time of existence. Q. Were you chairman of the board the entire time that MHCS existed? A. I believe so. Q. Do you remember how many people were generally
2 3 4 5 6 7	health care providing. MR. ACETO: I need to talk to him about an issue. (Witness confers with counsel.) BY MR. TUMILTY: Q. Who would you say was responsible for the	2 3 4 5 6 7	 A. I think the entire time of existence. Q. Were you chairman of the board the entire time that MHCS existed? A. I believe so. Q. Do you remember how many people were generally on the board of MHCS?
2 3 4 5 6 7 8	health care providing. MR. ACETO: I need to talk to him about an issue. (Witness confers with counsel.) BY MR. TUMILTY: Q. Who would you say was responsible for the day-to-day operations at MHCS during 1998 and 1999?	2 3 4 5 6 7 8	A. I think the entire time of existence. Q. Were you chairman of the board the entire time that MHCS existed? A. I believe so. Q. Do you remember how many people were generally on the board of MHCS? A. I think it was three.
2 3 4 5 6 7 8 9	health care providing. MR. ACETO: I need to talk to him about an issue. (Witness confers with counsel.) BY MR. TUMILTY: Q. Who would you say was responsible for the day-to-day operations at MHCS during 1998 and 1999? A. Indy Edwards.	2 3 4 5 6 7 8	A. I think the entire time of existence. Q. Were you chairman of the board the entire time that MHCS existed? A. I believe so. Q. Do you remember how many people were generally on the board of MHCS? A. I think it was three. Q. Can you tell me who else was on the board of
2 3 4 5 6 7 8 9	health care providing. MR. ACETO: I need to talk to him about an issue. (Witness confers with counsel.) BY MR. TUMILTY: Q. Who would you say was responsible for the day-to-day operations at MHCS during 1998 and 1999? A. Indy Edwards. Q. Anyone else?	2 3 4 5 6 7 8 9	A. I think the entire time of existence. Q. Were you chairman of the board the entire time that MHCS existed? A. I believe so. Q. Do you remember how many people were generally on the board of MHCS? A. I think it was three. Q. Can you tell me who else was on the board of MHCS besides yourself?
2 3 4 5 6 7 8 9 10	health care providing. MR. ACETO: I need to talk to him about an issue. (Witness confers with counsel.) BY MR. TUMILTY: Q. Who would you say was responsible for the day-to-day operations at MHCS during 1998 and 1999? A. Indy Edwards. Q. Anyone else? A. Pam Jones was the controller.	2 3 4 5 6 7 8	A. I think the entire time of existence. Q. Were you chairman of the board the entire time that MHCS existed? A. I believe so. Q. Do you remember how many people were generally on the board of MHCS? A. I think it was three. Q. Can you tell me who else was on the board of MHCS besides yourself? A. Myself, my wife and one other member. The
2 3 4 5 6 7 8 9 10 11	health care providing. MR. ACETO: I need to talk to him about an issue. (Witness confers with counsel.) BY MR. TUMILTY: Q. Who would you say was responsible for the day-to-day operations at MHCS during 1998 and 1999? A. Indy Edwards. Q. Anyone else? A. Pam Jones was the controller. Q. Is it your belief that both of those people	2 3 4 5 6 7 8 9 10 11	A. I think the entire time of existence. Q. Were you chairman of the board the entire time that MHCS existed? A. I believe so. Q. Do you remember how many people were generally on the board of MHCS? A. I think it was three. Q. Can you tell me who else was on the board of MHCS besides yourself? A. Myself, my wife and one other member. The other member changed from time to time.
2 3 4 5 6 7 8 9 10 11 12 13	health care providing. MR. ACETO: I need to talk to him about an issue. (Witness confers with counsel.) BY MR. TUMILTY: Q. Who would you say was responsible for the day-to-day operations at MHCS during 1998 and 1999? A. Indy Edwards. Q. Anyone else? A. Pam Jones was the controller. Q. Is it your belief that both of those people were responsible for the day-to-day operations of MHCS	2 3 4 5 6 7 8 9 10 11 12 13	A. I think the entire time of existence. Q. Were you chairman of the board the entire time that MHCS existed? A. I believe so. Q. Do you remember how many people were generally on the board of MHCS? A. I think it was three. Q. Can you tell me who else was on the board of MHCS besides yourself? A. Myself, my wife and one other member. The other member changed from time to time. Q. And you mentioned that you were also a
2 3 4 5 6 7 8 9 10 11 12 13 14	health care providing. MR. ACETO: I need to talk to him about an issue. (Witness confers with counsel.) BY MR. TUMILTY: Q. Who would you say was responsible for the day-to-day operations at MHCS during 1998 and 1999? A. Indy Edwards. Q. Anyone else? A. Pam Jones was the controller. Q. Is it your belief that both of those people were responsible for the day-to-day operations of MHCS from 1999 until MHCS ceased to exist?	2 3 4 5 6 7 8 9 10 11	A. I think the entire time of existence. Q. Were you chairman of the board the entire time that MHCS existed? A. I believe so. Q. Do you remember how many people were generally on the board of MHCS? A. I think it was three. Q. Can you tell me who else was on the board of MHCS besides yourself? A. Myself, my wife and one other member. The other member changed from time to time. Q. And you mentioned that you were also a stockholder of MHCS. Were you a stockholder of MHCS
2 3 4 5 6 7 8 9 10 11 12 13 14 15	health care providing. MR. ACETO: I need to talk to him about an issue. (Witness confers with counsel.) BY MR. TUMILTY: Q. Who would you say was responsible for the day-to-day operations at MHCS during 1998 and 1999? A. Indy Edwards. Q. Anyone else? A. Pam Jones was the controller. Q. Is it your belief that both of those people were responsible for the day-to-day operations of MHCS from 1999 until MHCS ceased to exist? A. Yes.	2 3 4 5 6 7 8 9 10 11 12 13	A. I think the entire time of existence. Q. Were you chairman of the board the entire time that MHCS existed? A. I believe so. Q. Do you remember how many people were generally on the board of MHCS? A. I think it was three. Q. Can you tell me who else was on the board of MHCS besides yourself? A. Myself, my wife and one other member. The other member changed from time to time. Q. And you mentioned that you were also a
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	health care providing. MR. ACETO: I need to talk to him about an issue. (Witness confers with counsel.) BY MR. TUMILTY: Q. Who would you say was responsible for the day-to-day operations at MHCS during 1998 and 1999? A. Indy Edwards. Q. Anyone else? A. Pam Jones was the controller. Q. Is it your belief that both of those people were responsible for the day-to-day operations of MHCS from 1999 until MHCS ceased to exist? A. Yes. Q. Were you ever employed by MHCS?	2 3 4 5 6 7 8 9 10 11 12 13 14 15	A. I think the entire time of existence. Q. Were you chairman of the board the entire time that MHCS existed? A. I believe so. Q. Do you remember how many people were generally on the board of MHCS? A. I think it was three. Q. Can you tell me who else was on the board of MHCS besides yourself? A. Myself, my wife and one other member. The other member changed from time to time. Q. And you mentioned that you were also a stockholder of MHCS. Were you a stockholder of MHCS during its entire period of existence? A. Yes.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	health care providing. MR. ACETO: I need to talk to him about an issue. (Witness confers with counsel.) BY MR. TUMILTY: Q. Who would you say was responsible for the day-to-day operations at MHCS during 1998 and 1999? A. Indy Edwards. Q. Anyone else? A. Pam Jones was the controller. Q. Is it your belief that both of those people were responsible for the day-to-day operations of MHCS from 1999 until MHCS ceased to exist? A. Yes. Q. Were you ever employed by MHCS? A. Yes, but it was prior to '98.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A. I think the entire time of existence. Q. Were you chairman of the board the entire time that MHCS existed? A. I believe so. Q. Do you remember how many people were generally on the board of MHCS? A. I think it was three. Q. Can you tell me who else was on the board of MHCS besides yourself? A. Myself, my wife and one other member. The other member changed from time to time. Q. And you mentioned that you were also a stockholder of MHCS. Were you a stockholder of MHCS during its entire period of existence? A. Yes. Q. And were you the majority stockholder during
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	MR. ACETO: I need to talk to him about an issue. (Witness confers with counsel.) BY MR. TUMILTY: Q. Who would you say was responsible for the day-to-day operations at MHCS during 1998 and 1999? A. Indy Edwards. Q. Anyone else? A. Pam Jones was the controller. Q. Is it your belief that both of those people were responsible for the day-to-day operations of MHCS from 1999 until MHCS ceased to exist? A. Yes. Q. Were you ever employed by MHCS? A. Yes, but it was prior to '98. Q. When were you employed by MHCS?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. I think the entire time of existence. Q. Were you chairman of the board the entire time that MHCS existed? A. I believe so. Q. Do you remember how many people were generally on the board of MHCS? A. I think it was three. Q. Can you tell me who else was on the board of MHCS besides yourself? A. Myself, my wife and one other member. The other member changed from time to time. Q. And you mentioned that you were also a stockholder of MHCS. Were you a stockholder of MHCS during its entire period of existence? A. Yes. Q. And were you the majority stockholder during that entire period?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	MR. ACETO: I need to talk to him about an issue. (Witness confers with counsel.) BY MR. TUMILTY: Q. Who would you say was responsible for the day-to-day operations at MHCS during 1998 and 1999? A. Indy Edwards. Q. Anyone else? A. Pam Jones was the controller. Q. Is it your belief that both of those people were responsible for the day-to-day operations of MHCS from 1999 until MHCS ceased to exist? A. Yes. Q. Were you ever employed by MHCS? A. Yes, but it was prior to '98. Q. When were you employed by MHCS? A. I don't know the exact dates. It would have	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A. I think the entire time of existence. Q. Were you chairman of the board the entire time that MHCS existed? A. I believe so. Q. Do you remember how many people were generally on the board of MHCS? A. I think it was three. Q. Can you tell me who else was on the board of MHCS besides yourself? A. Myself, my wife and one other member. The other member changed from time to time. Q. And you mentioned that you were also a stockholder of MHCS. Were you a stockholder of MHCS during its entire period of existence? A. Yes. Q. And were you the majority stockholder during that entire period? A. I think between myself and my wife we were.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	MR. ACETO: I need to talk to him about an issue. (Witness confers with counsel.) BY MR. TUMILTY: Q. Who would you say was responsible for the day-to-day operations at MHCS during 1998 and 1999? A. Indy Edwards. Q. Anyone else? A. Pam Jones was the controller. Q. Is it your belief that both of those people were responsible for the day-to-day operations of MHCS from 1999 until MHCS ceased to exist? A. Yes. Q. Were you ever employed by MHCS? A. Yes, but it was prior to '98. Q. When were you employed by MHCS? A. I don't know the exact dates. It would have been somewhere in the 92 or '93 or '97.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. I think the entire time of existence. Q. Were you chairman of the board the entire time that MHCS existed? A. I believe so. Q. Do you remember how many people were generally on the board of MHCS? A. I think it was three. Q. Can you tell me who else was on the board of MHCS besides yourself? A. Myself, my wife and one other member. The other member changed from time to time. Q. And you mentioned that you were also a stockholder of MHCS. Were you a stockholder of MHCS during its entire period of existence? A. Yes. Q. And were you the majority stockholder during that entire period? A. I think between myself and my wife we were. Q. On a percentage basis, do you recall how much
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	MR. ACETO: I need to talk to him about an issue. (Witness confers with counsel.) BY MR. TUMILTY: Q. Who would you say was responsible for the day-to-day operations at MHCS during 1998 and 1999? A. Indy Edwards. Q. Anyone else? A. Pam Jones was the controller. Q. Is it your belief that both of those people were responsible for the day-to-day operations of MHCS from 1999 until MHCS ceased to exist? A. Yes. Q. Were you ever employed by MHCS? A. Yes, but it was prior to '98. Q. When were you employed by MHCS? A. I don't know the exact dates. It would have been somewhere in the 92 or '93 or '97. MR. ACETO: I want to make sure the	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. I think the entire time of existence. Q. Were you chairman of the board the entire time that MHCS existed? A. I believe so. Q. Do you remember how many people were generally on the board of MHCS? A. I think it was three. Q. Can you tell me who else was on the board of MHCS besides yourself? A. Myself, my wife and one other member. The other member changed from time to time. Q. And you mentioned that you were also a stockholder of MHCS. Were you a stockholder of MHCS during its entire period of existence? A. Yes. Q. And were you the majority stockholder during that entire period? A. I think between myself and my wife we were. Q. On a percentage basis, do you recall how much your wife and you owned of the stock of MHCS?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	MR. ACETO: I need to talk to him about an issue. (Witness confers with counsel.) BY MR. TUMILTY: Q. Who would you say was responsible for the day-to-day operations at MHCS during 1998 and 1999? A. Indy Edwards. Q. Anyone else? A. Pam Jones was the controller. Q. Is it your belief that both of those people were responsible for the day-to-day operations of MHCS from 1999 until MHCS ceased to exist? A. Yes. Q. Were you ever employed by MHCS? A. Yes, but it was prior to '98. Q. When were you employed by MHCS? A. I don't know the exact dates. It would have been somewhere in the 92 or '93 or '97. MR. ACETO: I want to make sure the question is not whether he was a board officer or	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. I think the entire time of existence. Q. Were you chairman of the board the entire time that MHCS existed? A. I believe so. Q. Do you remember how many people were generally on the board of MHCS? A. I think it was three. Q. Can you tell me who else was on the board of MHCS besides yourself? A. Myself, my wife and one other member. The other member changed from time to time. Q. And you mentioned that you were also a stockholder of MHCS. Were you a stockholder of MHCS during its entire period of existence? A. Yes. Q. And were you the majority stockholder during that entire period? A. I think between myself and my wife we were. Q. On a percentage basis, do you recall how much your wife and you owned of the stock of MHCS? A. At what point?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	MR. ACETO: I need to talk to him about an issue. (Witness confers with counsel.) BY MR. TUMILTY: Q. Who would you say was responsible for the day-to-day operations at MHCS during 1998 and 1999? A. Indy Edwards. Q. Anyone else? A. Pam Jones was the controller. Q. Is it your belief that both of those people were responsible for the day-to-day operations of MHCS from 1999 until MHCS ceased to exist? A. Yes. Q. Were you ever employed by MHCS? A. Yes, but it was prior to '98. Q. When were you employed by MHCS? A. I don't know the exact dates. It would have been somewhere in the 92 or '93 or '97. MR. ACETO: I want to make sure the	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. I think the entire time of existence. Q. Were you chairman of the board the entire time that MHCS existed? A. I believe so. Q. Do you remember how many people were generally on the board of MHCS? A. I think it was three. Q. Can you tell me who else was on the board of MHCS besides yourself? A. Myself, my wife and one other member. The other member changed from time to time. Q. And you mentioned that you were also a stockholder of MHCS. Were you a stockholder of MHCS during its entire period of existence? A. Yes. Q. And were you the majority stockholder during that entire period? A. I think between myself and my wife we were. Q. On a percentage basis, do you recall how much your wife and you owned of the stock of MHCS? A. At what point?

	Case 1:05-cv-11128-NG Document	710-4	
	21 Q. Say the 2000 to 2002 time frame?	1	time?
1		2	A. Because that's when my medical condition was
2		3	the most severe, and I needed a major time out.
3	Edwards had stock, and I think they might have owned	4	MR. TUMILTY: We'll mark this as Exhibit
. 3	between five and 10 percent each.		
v.ř	Q. Other than yourself, your wife, Jones and	5	1.
6	Edwards, were there any other stockholders of MHCS in	6	(Document marked for identification as
7	the 2000 to 2002 time frame?	7	Exhibit No. 1.)
8	A. No.	8	BY MR. TUMILTY:
9	Q. I believe you said earlier one of the things	9	Q. Mr. Ingoldsby, I've handed you what the court
10	you did was introductions to banking relationships for	10	reporter marked as Exhibit 1. It's a document entitled
11	MHCS?	11	Amended and Restated Unconditional Guaranty of Payment
12	A. Well, I did that back in the period of	12	and Performance. Do you recognize that document?
13	prior to '98, that was really the primary role that I	13	A. I'd have to read the whole thing, but it looks
14	played.	14	familiar.
15	Q. Did you introduce Heller to MHCS or vice	15	Q. If you turn to the last page, it should have a
16	versa?	16	Bates number in the lower right corner of Jones 1499?
17	A. No, Heller had contacted Managed Healthcare.	17	A. Yes.
18	Actually, I can't remember the person's name who was	18	Q. Is that your signature on each of those lines?
19	trying to introduce Heller to Managed Healthcare, but	19	A. Yes.
20	Heller was not a contact man.	20	Q. If you turn to the page before that, 1498, is
21	Q. Did you leave MHCS before it ceased to exist?	21	that your signature on the line above the typed name?
22	MR. ACETO: You mean turn in his shares,	22	A. Yes.
23	resign from the board?	23	Q. Do you have any recollection as to whether you
24	BY MR. TUMILTY:	24	read this document before you signed it?
	22		24
1		1	A. I'm sure I did.
	22	1 2	
1	Q. Resign from the board?		A. I'm sure I did.
1 2	Q. Resign from the board? A. Well, at the time that the company was	2	A. I'm sure I did. MR. TUMILTY: We'll mark this as Exhibit
1 2 3	Q. Resign from the board? A. Well, at the time that the company was dissolved, my wife and I were still stockholders and on	2	A. I'm sure I did. MR, TUMILTY: We'll mark this as Exhibit 2.
1 2 3 4	Q. Resign from the board? A. Well, at the time that the company was dissolved, my wife and I were still stockholders and on the board, but there wasn't any active involvement.	2 3 4	A. I'm sure I did. MR. TUMILTY: We'll mark this as Exhibit 2. (Document marked for identification as
1 2 3 4 5	Q. Resign from the board? A. Well, at the time that the company was dissolved, my wife and I were still stockholders and on the board, but there wasn't any active involvement. Q. I'm not trying to trick you, but at some point	2 3 4 5	A. I'm sure I did. MR. TUMILTY: We'll mark this as Exhibit 2. (Document marked for identification as Exhibit No. 2.)
1 2 3 4 5	Q. Resign from the board? A. Well, at the time that the company was dissolved, my wife and I were still stockholders and on the board, but there wasn't any active involvement. Q. I'm not trying to trick you, but at some point you went out on disability. At the time you went out on	2 3 4 5 6	A. I'm sure I did. MR. TUMILTY: We'll mark this as Exhibit 2. (Document marked for identification as Exhibit No. 2.) BY MR. TUMILTY:
1 2 3 4 5 6 7	Q. Resign from the board? A. Well, at the time that the company was dissolved, my wife and I were still stockholders and on the board, but there wasn't any active involvement. Q. I'm not trying to trick you, but at some point you went out on disability. At the time you went out on disability, was MHCS still in existence?	2 3 4 5 6 7	A. I'm sure I did. MR. TUMILTY: We'll mark this as Exhibit 2. (Document marked for identification as Exhibit No. 2.) BY MR. TUMILTY: Q. I'm handing you what the court reporter marked
1 2 3 4 5 6 7 8	Q. Resign from the board? A. Well, at the time that the company was dissolved, my wife and I were still stockholders and on the board, but there wasn't any active involvement. Q. I'm not trying to trick you, but at some point you went out on disability. At the time you went out on disability, was MHCS still in existence? A. Yes.	2 3 4 5 6 7 8	A. I'm sure I did. MR. TUMILTY: We'll mark this as Exhibit 2. (Document marked for identification as Exhibit No. 2.) BY MR. TUMILTY: Q. I'm handing you what the court reporter marked Exhibit 2, Debtor-In-Possession of Loan and Security
1 2 3 4 5 6 7 8	Q. Resign from the board? A. Well, at the time that the company was dissolved, my wife and I were still stockholders and on the board, but there wasn't any active involvement. Q. I'm not trying to trick you, but at some point you went out on disability. At the time you went out on disability, was MHCS still in existence? A. Yes. Q. Was your reason for leaving MHCS because you	2 3 4 5 6 7 8	A. I'm sure I did. MR. TUMILTY: We'll mark this as Exhibit 2. (Document marked for identification as Exhibit No. 2.) BY MR. TUMILTY: Q. I'm handing you what the court reporter marked Exhibit 2, Debtor-In-Possession of Loan and Security Agreement By and Between Managed Healthcare Systems,
1 2 3 4 5 6 7 8 9	Q. Resign from the board? A. Well, at the time that the company was dissolved, my wife and I were still stockholders and on the board, but there wasn't any active involvement. Q. I'm not trying to trick you, but at some point you went out on disability. At the time you went out on disability, was MHCS still in existence? A. Yes. Q. Was your reason for leaving MHCS because you were going out on disability? A. No. I had some very significant medical	2 3 4 5 6 7 8 9	A. I'm sure I did. MR. TUMILTY: We'll mark this as Exhibit 2. (Document marked for identification as Exhibit No. 2.) BY MR. TUMILTY: Q. I'm handing you what the court reporter marked Exhibit 2, Debtor-In-Possession of Loan and Security Agreement By and Between Managed Healthcare Systems, Inc. and Medical Temporaries, Inc., Borrowers, and
1 2 3 4 5 6 7 8 9 10	Q. Resign from the board? A. Well, at the time that the company was dissolved, my wife and I were still stockholders and on the board, but there wasn't any active involvement. Q. I'm not trying to trick you, but at some point you went out on disability. At the time you went out on disability, was MHCS still in existence? A. Yes. Q. Was your reason for leaving MHCS because you were going out on disability?	2 3 4 5 6 7 8 9 10	A. I'm sure I did. MR. TUMILTY: We'll mark this as Exhibit 2. (Document marked for identification as Exhibit No. 2.) BY MR. TUMILTY: Q. I'm handing you what the court reporter marked Exhibit 2, Debtor-In-Possession of Loan and Security Agreement By and Between Managed Healthcare Systems, Inc. and Medical Temporaries, Inc., Borrowers, and Heller Healthcare Finance, Inc., lender, dated February
1 2 3 4 5 6 7 8 9 10 11 12	Q. Resign from the board? A. Well, at the time that the company was dissolved, my wife and I were still stockholders and on the board, but there wasn't any active involvement. Q. I'm not trying to trick you, but at some point you went out on disability. At the time you went out on disability, was MHCS still in existence? A. Yes. Q. Was your reason for leaving MHCS because you were going out on disability? A. No. I had some very significant medical problems. Managed Healthcare at that time was	2 3 4 5 6 7 8 9 10 11	A. I'm sure I did. MR. TUMILTY: We'll mark this as Exhibit 2. (Document marked for identification as Exhibit No. 2.) BY MR. TUMILTY: Q. I'm handing you what the court reporter marked Exhibit 2, Debtor-In-Possession of Loan and Security Agreement By and Between Managed Healthcare Systems, Inc. and Medical Temporaries, Inc., Borrowers, and Heller Healthcare Finance, Inc., lender, dated February 28, 2001. Do you recognize that document?
1 2 3 4 5 6 7 8 9 10 11 12 13	Q. Resign from the board? A. Well, at the time that the company was dissolved, my wife and I were still stockholders and on the board, but there wasn't any active involvement. Q. I'm not trying to trick you, but at some point you went out on disability. At the time you went out on disability, was MHCS still in existence? A. Yes. Q. Was your reason for leaving MHCS because you were going out on disability? A. No. I had some very significant medical problems. Managed Healthcare at that time was functioning very well. Q. The significant health problems you just	2 3 4 5 6 7 8 9 10 11 12 13	A. I'm sure I did. MR. TUMILTY: We'll mark this as Exhibit 2. (Document marked for identification as Exhibit No. 2.) BY MR. TUMILTY: Q. I'm handing you what the court reporter marked Exhibit 2, Debtor-In-Possession of Loan and Security Agreement By and Between Managed Healthcare Systems, Inc. and Medical Temporaries, Inc., Borrowers, and Helier Healthcare Finance, Inc., lender, dated February 28, 2001. Do you recognize that document? A. Yes.
1 2 3 4 5 6 7 8 9 10 11 12 13 14	Q. Resign from the board? A. Well, at the time that the company was dissolved, my wife and I were still stockholders and on the board, but there wasn't any active involvement. Q. I'm not trying to trick you, but at some point you went out on disability. At the time you went out on disability, was MHCS still in existence? A. Yes. Q. Was your reason for leaving MHCS because you were going out on disability? A. No. I had some very significant medical problems. Managed Healthcare at that time was functioning very well.	2 3 4 5 6 7 8 9 10 11 12 13	A. I'm sure I did. MR. TUMILTY: We'll mark this as Exhibit 2. (Document marked for identification as Exhibit No. 2.) BY MR. TUMILTY: Q. I'm handing you what the court reporter marked Exhibit 2, Debtor-In-Possession of Loan and Security Agreement By and Between Managed Healthcare Systems, Inc. and Medical Temporaries, Inc., Borrowers, and Helier Healthcare Finance, Inc., lender, dated February 28, 2001. Do you recognize that document? A. Yes. Q. If you would please turn to page 51. It's two
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	Q. Resign from the board? A. Well, at the time that the company was dissolved, my wife and I were still stockholders and on the board, but there wasn't any active involvement. Q. I'm not trying to trick you, but at some point you went out on disability. At the time you went out on disability, was MHCS still in existence? A. Yes. Q. Was your reason for leaving MHCS because you were going out on disability? A. No. I had some very significant medical problems. Managed Healthcare at that time was functioning very well. Q. The significant health problems you just referred to, were those the ones you referred to	2 3 4 5 6 7 8 9 10 11 12 13 14	A. I'm sure I did. MR. TUMILTY: We'll mark this as Exhibit 2. (Document marked for identification as Exhibit No. 2.) BY MR. TUMILTY: Q. I'm handing you what the court reporter marked Exhibit 2, Debtor-In-Possession of Loan and Security Agreement By and Between Managed Healthcare Systems, Inc. and Medical Temporaries, Inc., Borrowers, and Heller Healthcare Finance, Inc., lender, dated February 28, 2001. Do you recognize that document? A. Yes. Q. If you would please turn to page 51. It's two pages from the back. Is that your signature on the
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q. Resign from the board? A. Well, at the time that the company was dissolved, my wife and I were still stockholders and on the board, but there wasn't any active involvement. Q. I'm not trying to trick you, but at some point you went out on disability. At the time you went out on disability, was MHCS still in existence? A. Yes. Q. Was your reason for leaving MHCS because you were going out on disability? A. No. I had some very significant medical problems. Managed Healthcare at that time was functioning very well. Q. The significant health problems you just referred to, were those the ones you referred to earlier? A. Yes.	2 3 4 5 6 7 8 9 10 11 12 13 14 15	A. I'm sure I did. MR. TUMILTY: We'll mark this as Exhibit 2. (Document marked for identification as Exhibit No. 2.) BY MR. TUMILTY: Q. I'm handing you what the court reporter marked Exhibit 2, Debtor-In-Possession of Loan and Security Agreement By and Between Managed Healthcare Systems, Inc. and Medical Temporaries, Inc., Borrowers, and Helier Healthcare Finance, Inc., lender, dated February 28, 2001. Do you recognize that document? A. Yes. Q. If you would please turn to page 51. It's two pages from the back. Is that your signature on the document above your typed name?
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. Resign from the board? A. Well, at the time that the company was dissolved, my wife and I were still stockholders and on the board, but there wasn't any active involvement. Q. I'm not trying to trick you, but at some point you went out on disability. At the time you went out on disability, was MHCS still in existence? A. Yes. Q. Was your reason for leaving MHCS because you were going out on disability? A. No. I had some very significant medical problems. Managed Healthcare at that time was functioning very well. Q. The significant health problems you just referred to, were those the ones you referred to earlier? A. Yes. Q. In the 2000 to 2002 time frame, do you believe	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A. I'm sure I did. MR. TUMILTY: We'll mark this as Exhibit 2. (Document marked for identification as Exhibit No. 2.) BY MR. TUMILTY: Q. I'm handing you what the court reporter marked Exhibit 2, Debtor-In-Possession of Loan and Security Agreement By and Between Managed Healthcare Systems, Inc. and Medical Temporaries, Inc., Borrowers, and Heller Healthcare Finance, Inc., lender, dated February 28, 2001. Do you recognize that document? A. Yes. Q. If you would please turn to page 51. It's two pages from the back. Is that your signature on the document above your typed name? A. Yes.
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q. Resign from the board? A. Well, at the time that the company was dissolved, my wife and I were still stockholders and on the board, but there wasn't any active involvement. Q. I'm not trying to trick you, but at some point you went out on disability. At the time you went out on disability, was MHCS still in existence? A. Yes. Q. Was your reason for leaving MHCS because you were going out on disability? A. No. I had some very significant medical problems. Managed Healthcare at that time was functioning very well. Q. The significant health problems you just referred to, were those the ones you referred to earlier? A. Yes. Q. In the 2000 to 2002 time frame, do you believe you had any responsibilities with respect to MHCS?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. I'm sure I did. MR. TUMILTY: We'll mark this as Exhibit 2. (Document marked for identification as Exhibit No. 2.) BY MR. TUMILTY: Q. I'm handing you what the court reporter marked Exhibit 2, Debtor-In-Possession of Loan and Security Agreement By and Between Managed Healthcare Systems, Inc. and Medical Temporaries, Inc., Borrowers, and Helier Healthcare Finance, Inc., lender, dated February 28, 2001. Do you recognize that document? A. Yes. Q. If you would please turn to page 51. It's two pages from the back. Is that your signature on the document above your typed name? A. Yes. Q. Do you know if you read this document before
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q. Resign from the board? A. Well, at the time that the company was dissolved, my wife and I were still stockholders and on the board, but there wasn't any active involvement. Q. I'm not trying to trick you, but at some point you went out on disability. At the time you went out on disability, was MHCS still in existence? A. Yes. Q. Was your reason for leaving MHCS because you were going out on disability? A. No. I had some very significant medical problems. Managed Healthcare at that time was functioning very well. Q. The significant health problems you just referred to, were those the ones you referred to earlier? A. Yes. Q. In the 2000 to 2002 time frame, do you believe you had any responsibilities with respect to MHCS? A. No.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. I'm sure I did. MR. TUMILTY: We'll mark this as Exhibit 2. (Document marked for identification as Exhibit No. 2.) BY MR. TUMILTY: Q. I'm handing you what the court reporter marked Exhibit 2, Debtor-In-Possession of Loan and Security Agreement By and Between Managed Healthcare Systems, Inc. and Medical Temporaries, Inc., Borrowers, and Heller Healthcare Finance, Inc., lender, dated February 28, 2001. Do you recognize that document? A. Yes. Q. If you would please turn to page 51. It's two pages from the back. Is that your signature on the document above your typed name? A. Yes. Q. Do you know if you read this document before you signed it?
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q. Resign from the board? A. Well, at the time that the company was dissolved, my wife and I were still stockholders and on the board, but there wasn't any active involvement. Q. I'm not trying to trick you, but at some point you went out on disability. At the time you went out on disability, was MHCS still in existence? A. Yes. Q. Was your reason for leaving MHCS because you were going out on disability? A. No. I had some very significant medical problems. Managed Healthcare at that time was functioning very well. Q. The significant health problems you just referred to, were those the ones you referred to earlier? A. Yes. Q. In the 2000 to 2002 time frame, do you believe you had any responsibilities with respect to MHCS? A. No. Q. When was the last time that you would say that	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. I'm sure I did. MR. TUMILTY: We'll mark this as Exhibit 2. (Document marked for identification as Exhibit No. 2.) BY MR. TUMILTY: Q. I'm handing you what the court reporter marked Exhibit 2, Debtor-In-Possession of Loan and Security Agreement By and Between Managed Healthcare Systems, Inc. and Medical Temporaries, Inc., Borrowers, and Helier Healthcare Finance, Inc., lender, dated February 28, 2001. Do you recognize that document? A. Yes. Q. If you would please turn to page 51. It's two pages from the back. Is that your signature on the document above your typed name? A. Yes. Q. Do you know if you read this document before you signed it? A. No, I don't.
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 22	Q. Resign from the board? A. Well, at the time that the company was dissolved, my wife and I were still stockholders and on the board, but there wasn't any active involvement. Q. I'm not trying to trick you, but at some point you went out on disability. At the time you went out on disability, was MHCS still in existence? A. Yes. Q. Was your reason for leaving MHCS because you were going out on disability? A. No. I had some very significant medical problems. Managed Healthcare at that time was functioning very well. Q. The significant health problems you just referred to, were those the ones you referred to earlier? A. Yes. Q. In the 2000 to 2002 time frame, do you believe you had any responsibilities with respect to MHCS? A. No. Q. When was the last time that you would say that you had responsibilities with respect to MHCS?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. I'm sure I did. MR. TUMILTY: We'll mark this as Exhibit 2. (Document marked for identification as Exhibit No. 2.) BY MR. TUMILTY: Q. I'm handing you what the court reporter marked Exhibit 2, Debtor-In-Possession of Loan and Security Agreement By and Between Managed Healthcare Systems, Inc. and Medical Temporaries, Inc., Borrowers, and Helier Healthcare Finance, Inc., lender, dated February 28, 2001. Do you recognize that document? A. Yes. Q. If you would please turn to page 51. It's two pages from the back. Is that your signature on the document above your typed name? A. Yes. Q. Do you know if you read this document before you signed it? A. No, I don't. Q. Would it normally be your practice to read documents before you sign them?
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q. Resign from the board? A. Well, at the time that the company was dissolved, my wife and I were still stockholders and on the board, but there wasn't any active involvement. Q. I'm not trying to trick you, but at some point you went out on disability. At the time you went out on disability, was MHCS still in existence? A. Yes. Q. Was your reason for leaving MHCS because you were going out on disability? A. No. I had some very significant medical problems. Managed Healthcare at that time was functioning very well. Q. The significant health problems you just referred to, were those the ones you referred to earlier? A. Yes. Q. In the 2000 to 2002 time frame, do you believe you had any responsibilities with respect to MHCS? A. No. Q. When was the last time that you would say that	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. I'm sure I did. MR. TUMILTY: We'll mark this as Exhibit 2. (Document marked for identification as Exhibit No. 2.) BY MR. TUMILTY: Q. I'm handing you what the court reporter marked Exhibit 2, Debtor-In-Possession of Loan and Security Agreement By and Between Managed Healthcare Systems, Inc. and Medical Temporaries, Inc., Borrowers, and Helier Healthcare Finance, Inc., lender, dated February 28, 2001. Do you recognize that document? A. Yes. Q. If you would please turn to page 51. It's two pages from the back. Is that your signature on the document above your typed name? A. Yes. Q. Do you know if you read this document before you signed it? A. No, I don't. Q. Would it normally be your practice to read documents before you sign them?

	Case 1:05-cv-111128-NG Document	7 10-4	6 Filed 11//10/2006 Page 8 of 28
1	there's a section in here that Greg just pointed out,	1	Q. And your memory is clear on that?
2	Section 10.16, that we don't think was in whatever we	2	A. It's seared in my memory. That's been a
3	signed. We both are of the opinion that this was a fax	3	subject of discussion over and over.
0	page and this is what we signed, not attached to any	4	Q. Why do you say Heller agreed you or your wife
	other document. That's our belief.	5	would not have to give a personal guaranty?
6	Q. By that you mean page 51?	6	A. Because he did agree to that, and we have it
7	A. Yes.	7	in writing.
8	Q. So you believe at the time you signed, it's	8	Q. Where is it in writing?
9	your testimony that at the time you signed page 51, it	9	A. It's in the documents we gave you.
10	was a single page and not attached to anything else?	10	Q. I'm not trying to sound sarcastic, but you're
11	A, Correct.	11	sure of that, it's in writing in some of the documents
12	Q. Were you advised to sign this document by	12	you gave us?
13	anybody?	13	A. Absolutely.
14	A. My wife was involved at the time, but I just	14	Q. Do you recall the name of that document or
15	don't recall who the lawyers were that were involved. I	15	what it relates to?
16	don't remember if it was Greg or someone else. All I	16	A. You can go off the record and talk to Greg and
	know is that we never agreed and never had a discussion	17	get that answer.
17	about a guaranty and it ends up in the document.	18	Q. I can't. I need to get your testimony. If
18		19	you can't answer, you can't answer it.
19	Q. Who did you discuss the debtor-in-possession security agreement with other than your wife?	20	A. I can't give you the name, but I could go
20	and the state of the state of	21	through all the documents and find it for you.
21	A. There was a law firm that was involved, Hannify & King. It might have been someone there or it	22	Q. But it's in a document that you produced?
22	might have been Greg. I just don't remember.	23	A. Yes.
23		24	
24	Q. Do you know if you had an attorney 26		28
	representing you personally in connection with the	1	page 51?
1	debtor-in-possession loan and security agreement?	2	A. I think that my wife and I were at Hannify &
2		3	King, but I really don't know. When all that was going
3		4	on, we spent a lot of time there at Hannify & King.
4		5	Maybe I'm just guessing at that.
5 6		6	Q. Do you know if Hannify & King had the final
		7	debtor-in-possession agreement in its possession while
7		8	you were there?
8		9	MR. ACETO: Objection.
9	with? A. No.	10	BY MR. TUMILTY:
10		11	Q. I'll restate that. Your memory or your belief
11	Q. Why would you have signed a signature page document, namely page 51, without it being attached to	12	is that you signed page 51 of Exhibit 2 while you were
12		13	at the offices of Hannify & King?
13	anything else? A. Well, my wife and I believe we saw drafts of	14	A. I don't have a clear memory. All I know is
14	A. Well, my wife and I believe we saw drafts of the agreement or our attorneys saw drafts. I know	15	almost everything surrounding the bankruptcy took place
15	papers were being exchanged. The signature page was	16	there. I don't have a clear memory.
16	faxed to us wherever we were and we signed a single	17	Q. Who was Hannify & King representing in that
17	·	18	bankruptcy?
18	page. That's what we believe. You have to understand that my arrangement or	19	A. Managed Healthcare.
19		20	Q. They didn't represent you personally?
	my wife's arrangement with Heller was there would be no personal guaranty, and they agreed to that. So why	21	A. No.
•			
		ワウ	
22	would I or my wife agree particularly when the company	22	· · · · · · · · · · · · · · · · · · ·
1		22 23 24	idea of a personal guaranty with you or your wife? A. No.

0. Do you recell an Ozeber 2001 meeting that you principles of the process of the		Case 1:05-cv-11128-NG Document	710-4	File	ed 111//10/2006 Page 9 of 28
A I don't remember the date, but I do remember going to that meeting. Q. Tell may what you remember about that or reebing. A I remember shot Indy and Pam. Tarky Edwards and Pam Jones and they wanted you there at the perceiving base and the components tiles ware being to calculated into the berrowing base. A remember shot Indy and Pam. Tarky Edwards and Pam Jones and the components tiles ware being to calculated into the berrowing base. A remember shot Indy and Pam. Tarky Edwards and Pam Jones and the components tiles ware being to calculated into the berrowing base. A reads with a new methodology thac was adopted by Medicare. I don't remember the technical mane, but it had to basically estimate what the value of your services would bron to be on a certain patient. You would book those revenues accordingly. They fait that they were booking more than what they should be booking, and they talked to Heller about it. And right before that meeting – there wasn't about it. And right before that meeting – there wasn't had been satisfied. They fait with them. Helder had done the audits and the beat satisfied. They had the providing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was a semi-developed by the problem by Reller. They wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was, but it was to reach out to future services and pull those into the problem by Reller. There wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was to interpret what they were basically including in it. At the end of that meeting, heller was satisfied that although there was a some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was to interpret what they were basically including in it. At the end of that meeting at all. If was a vary pleasant meeting and it i	4		1	Α.	-
A. I don't remember the date, but I do remember going to that meeting. 9 a. To the what you remember about that needing. A. I remember that Indy and Pam, Indy Edwards and Pam Jones had rated an inswe with Haller about the betrowing base and the components that were being calculated into the borrowing base. 10 dealt with a new methodology that was adopted by Medians at John trombers the technical wamp, but it had to besically estimate what the value of your services would turn out to be on a certoin patient. You would book those revenues accordingly. 10 They felt that they were booking more than what they should be booking, and they talked to Heller about they should be booking, and they talked to Heller about they should be booking, and they talked to Heller about the visit with them. Heler had done the audits and had been satisfied. 10 They felt what they should be booking, and they talked to Heller about the visit with them. Heler had done the audits and had been satisfied. 11 That day, because they wanted ne to be there, I wanted were there, I was a were yellow and the felt and they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting at the warm to further wash't in remember exactly what it was, but it was to reach aut to future services and pull those into the percent and the fand diety served lunch in the problem. 10 Jones and I think someone else. 11 There was a discussion that they all had about the borrowing base and different ways to interpret what the percent according there was some overstatement, there wasn't any big problem. 12 Jones and I think someone else. 13 Jones and I think someone else. 14 Jones and I think someone else. 25 Jones and I think someone else. 26 Jones and I think someone else. 27 Jones and I think someone else. 28 Jones and I think someone else. 29 Jones and I think someone else. 20 Jones and I think someone else. 21 Jones and I think someone else. 22 Jones and I think someone el	2	participated in with representatives of Heller	2	Q.	In giving that answer, at one point you said,
Soing to that meeting. 5	3	concerning the overstatement of Medicare payments?	3	and I thir	nk it is pretty close, I'm not trying to hold
0. Tell me whok you remember about that meeting A. I remember that Indy and Pann, Indy Edwards end Pann Jones had raised an issue with Heller about the socrewing base and the components that were being celculated into the borrowing base. 1 It deaft with a new methodology that was adopted by Medicare. It don't remember the technical adopted by Medicare. It don't remember that value of your services would turn out to be on a certain patient. 1 you would book those revenues accordingly. 1 They left that diey were booking more than what they should be booking, and they talked to Heller about it. And right before that meeting — there wasn't any big consternation. If anything, Heller was coming up to visit with them. Heller had done the audits and had been satisfied. 1 That day, because they wanted me to be there, and their health care guys, lenders, I think they had four the health care guys, lenders, I think they had four the health care guys, lenders, I think they had four they had four the health care guys, lenders, I think they had four the health care guys, lenders, I think they all had about the borrowing base and I think someone else. 1 There was a discussion that they all had about the borrowing base and if think someone else. 2 There was a discussion that they all had about the borrowing base and if think someone else. 3 Depole in total. And, of course, the people that run meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. 3 Denes and I think someone else. 4 There was a discussion that they all had about the borrowing base and if there wasn't any big problem. 5 Can't remember exactly what it was, but it was to reach out to future services and pull those into the present. So there was no crisis that was a part of that meeting at all. 4 If was a very pleasant meeting and it lested about an hour and a half and they served lunch in the office and Left. There wesn't ever any mention of a problem by Meller. In fact, some of the documents that you sho		A. I don't remember the date, but I do remember	4	you to it,	you said they wanted you there at this
A Tremember that Indy and Pain, Indy Edwards and Pain Jones had raised an issue with Heller about the borrowing base and the components that were being esticulated into the borrowing base. It dealt with a new methodology shat was like the borrowing base. It dealt with a new methodology shat was like the borrowing base. It dealt with a new methodology shat was like the borrowing base. It dealt with a new methodology shat was like the borrowing base. It dealt with a new methodology shat was like the borrowing base. It dealt with a new methodology shat was like the borrowing base. It dealt with a new methodology shat was like the borrowing base and the proving base and the proving base was like the borrowing base. It dealt with a new methodology shat was like the borrowing base and the proving base was like the borrowing base and the proving base and the proving base and the proving base and the proving base and different ways to interpret what they ware basically including in it. At the end of that meeting, Heller was attisfied that although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, like was a part of that meeting and it issed about to future services and pull those into the present. So there wasn't was be the wasn't wasn't insignificant. So I went over any mention of a problem by Heller. In fact, some of the documents that you shud have show the correspondence where they even made suggestions as to how to enhance the borrowing base. So that's what that meeting was all about. You know, it becomes a focal point for the later 7 Outher than what you gue service and with the since the present. So there wasn't even any mention of a problem by Heller. In fact, some of the documents that you should have show the correspondence where they even made suggestions as to how to enhance the borrowing base. So that's what that meeting was all about. You know, it becomes a focal point for the later 20 A. She told that to Indy Edwards.		going to that meeting.	5	meeting?	
8 Pam Jones had related an issue with Heller about the 9 borrowing farse and the components that ware being calculated into the borrowing base. 11 It dest with a new methodology that was 22 adopted by Medicare. I don't remember the technical 12 adopted by Medicare. I don't remember the technical 13 name, but it had to basically estimate what the value of 14 your would book those revenues accordingly. 15 They felt that they were booking more than 16 what they should be booking, and they talked to Heller 17 A. I don't know that. 18 about it. And right before that meeting – there wasn't 19 any big consternation. If anything, Heller was coming 19 up to visit with them. Heler had done the audits and 10 had been satisfied. 10 People in total. And, of course, the people that run 11 Managed Healthcare were there, Indy Edwards and Pam 12 Jones and I think someone else. 13 People in total. And, of course, the people that run 14 Managed Healthcare were there, Indy Edwards and Pam 15 Jones and I think someone else. 16 There was a discussion that they all had about 16 the borrowing base and different ways to interpret what 17 meeting, Heller was satisfied that although there was 18 some overstatement, there wan't any big problem. 19 And in fact, they came up with a creative way, 10 I can't remember exactly what it was, but it was to 17 reach out to future services and pull those into the 18 problem by Heller. In fact, come of the documents that 19 you should have show the correspondence where they even 19 made suggestions as to how to enhance the borrowing 19 base. 10 So that's what that meeting was all about. 21 You know, it becomes a focal point for the later 22 Ca. Did they led you any other? 23 A. Well, at this point — it represented a very 24 A. No. I didn't know that. 25 A. No. I didn't play any role. 26 A. Probably. I mean, do you mean in a negative or positive. Did she tell you 27 been problem by Heller. In fact, come of the documents that 28 you should have show the correspondence where they even 29 made suggestion	6	Q. Tell me what you remember about that meeting.	6	A.	Right.
borrowing base and the components that were being calculated into the porrowing base. It dealt with a new methodology that was adopted by Medicare. It don't remember the technical name, but it had to besically estimate what the value of your survices would turn out to be on a certain patient. You would book those revenues accordingly. They felt that they were booking more than what they should be booking, and they tailed to Heller about it. And right before that meeting – there wasn't any big consternation. If anything, Heller was coming up to visit with them. Heler had done the audits and habeen satisfied. That day, because they wanted me to be there, I went over. And Heller had their attorney, two of their health care guys, lenders, I think they had four their health care guys, lenders, I think they had four Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was, but it was to reach out to future services and pull those into the present. So there was no crisis that was a part of that meeting at all. It was a very pleasant meeting and it lasted that was to reach out to future services and pull those into the present. So there was no crisis that was a part of that meeting at all. It was a very pleasant meeting and it lasted that should be been an audit done of the borrowing base certificates? On Either negative or positive. Did she tell you that? A I know Heller sent auditors in there all the time, so that wouldn't be unusual. The was a very pleasant meeting and it lasted that should have show the correspondence where they even made suggestions as to how to enhance the borrowing base. So that's what that meeting was all about. You	7	A. I remember that Indy and Pam, Indy Edwards and	7	Q.	Who is the "they?"
10 A. Secause I was the major stockholder and 2 doubted by Medicare. I don't remember the technical 2 adopted by Medicare. I don't remember the technical 3 name, but it had to be socially estimate what the value of 4 your services would turn out to be on a certain patient. 14 A. No. 15 O. Do you know if heller had requested that you would book those revenues accordingly. 15 O. Do you know if heller had requested that you what they should be booking, and they talked to Heller about it. And right before that meeting — there wasn't 2 any big constemation. If anything, Heller was coming 2 up to visit with them. Heler had done the audits and 21 had been satisfied. 16 That day, because they wanted me to be there, 2 went over. And Heller had their attorney, two of 24 their health care guys, lenders, I think they had four 2 their health care guys, lenders, I think they had four 2 their health care guys, lenders, I think they had four 2 the borrowing base and different ways to interpret what they were basically including in it. At the end of that they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. 2 trach out to future services and pull those into the 2 present. So there was no crisis that was a part of that 2 present. So there was no crisis that was a part of that 3 meeting at ali. 1 twas a very pleasant meeting and it lessed 4 boot an hour and a half and they served lunch in the 5 problem by heller. In fact, some of the documents that 4 you should have show the correspondence where they even 3 made suggestions as to how to enhance the borrowing base. 5 othat's what that meeting was all about. 4 you know, it becomes a focal point for the later 4 you know, it becomes a focal point for the later 4 you know, it becomes a focal point for the later 4 you know, it becomes a focal point for the later 4 you know, it becomes a focal point for the later 4 you know that; 4 you should have show the correspondence where they	8	Pam Jones had raised an issue with Heller about the	8	A.	Indy and Pam.
acaculated into the berrowing base. It deals with a new inceshoology that was adopted by Redicers. I don't remamber the technical name, but it had to besically estimate what the value of your services would turn out to be an a certain patient. You would book those revenues accordingly. They felt that they were booking more than what they should be booking, and they talked to Heller about the And right before that meeting — there wasn't any big consternation. If anything, Heller was coming up to visit with them. Heler had done the audits and had been satisfied. That day, because they wanted me to be there, I was a very leasant meeting. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, the lier was satisfied that although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was, but it was to reach out to future services and pull those into the present. So there wasn o crisis that was a part of that meeting at all. It was a very pleasant meeting and it lasted about an hour ond a half and they served lameh in the probably. It mean, do you mean in a negative about an hour ond a half and they served lameh in the probable. So that's what that meeting was all about. You know, it becomes a focal point for the later. You know, it becomes a focal point for the later. You know, it becomes a focal point for the later. You know, it becomes a focal point for the later. A Because I was the major attockholder and chairman. And in an extend they were demand to half they wanted they wanted would not be at the meeting? A. No. O. Do you know if Heller had requested that you be and the meeting? A. Well, at this point — it represented a very you know that. 2. Do you know if Heller had requested that you big intorestment of my wife and meeting? A. Well, at this point — it represented a very you were at the meeting?	9	borrowing base and the components that were being	9	Q.	Did they tell you why they wanted you there?
sdopted by Medicare. I don't remember the technical name, but it had to basically estimate what the value of your services would turn out to be on a certain patient. You would be be those revenues accordingly. They fait that they were booking more than what they should be booking, and they talked to Heller about it. And right before that meeting – there wasn't any big consternation. If anything, Heller was coming up to visit with them. Heller had done the audits and had been satisfied. That day, because they wanted me to be there, I went over and Heller had their attorney, two of their health care guys, lenders, I think they had four people in total. And, of course, the people that run Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was, but it was to reach out to future services and pull those into the present. So there wasn't creating and it lasted the formation and a half and they served lunch in the office and I left. There wasn't are year any mention of a problem by Heller. In fact, some of the documents that you should have show the correspondence where they even made suggestions as to how to enhance the borrowing base. So that's what that meeting was all about. You know, it before and refer had received that way and the meeting? A. No. I didn't play any othen. A. Well, at this point it represented a very big investment of my wife and myself and this you big investment of my wife and myself and this was a resolved. Q. Other than what you just said, is there any other reason why you were at the meeting? A. No. I didn't play any role. Q. At some point did Pam Jones inform you of the results of an audit concerning the bor	10		10	Α.	Because I was the major stockholder and
adopted by Medicare. I don't remember the technical mame, but it had to basically estimate what the value of your services would turn out to be on a certain patient. You would book those revenues accordingly. They felt that they were booking more than what they should be booking, and they talked to Heller about it. And right before that meeting – there wasn't any big consternation. If anything, Heller was coming up to visit with them. Heller had done the audits and had been satisfied. That day, because they wanted me to be there, I went over. And Heller had their attorney, two of their health care guys, lenders, I think they had four Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was, but it was to reach out to future services and pull those into the present. So there wasn't ever any mention of a forfice and I left. There wasn't aver any mention of a problem by Heller. In fact, some of the documents that you should have show the correspondence where they even made suggestions as to how to enhance the borrowing base. So that's what that meeting was all about. You know, it bedier had requested that vyou any other reason why there? A. No. A. No. A. I don't know that. A. No. Why were you at the meeting? A. No. I don't know that. A. No. Why were you at the meeting? A. I don't know that. A. No. O. Why were you the meeting? A. Well, at this point—it it represented a very big investment of my wife and myself and this was lissue that wasn't insignificant. So I went over any was satisfied then? A. Well, at this point—it it represented a very big investment of my wife and myself and this was lissue that wasn't insignificant. So I	11	It dealt with a new methodology that was	4	chairma	n.
name, but it had to basically estimate what the value of your services would turn out to be on a certain patient. You would book those revenues accordingly. They felt that they were booking more than what they should be booking, and they talked to Heller about it. And right before that meeting – there wasn't any big consternation. If anything, Heller was coming up to visit with them. Heller had done the audits and had been satisfied. That day, because they wanted me to be there, I need their attorney, two of their health care guys, lenders, I think they had four Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was, but it was to reach out to future services and pull those into the prosent. So there wasn't ever any mention of a fiftice and I left. There wasn't awas not rise that was a part of that meeting at all. It was a very pleasant meeting and it iested office and I left. There wasn't aver any mention of a problem by Heller. In fact, some of the documents that you should have show the correspondence where they even made suggestions as to how to enhance the borrowing base. So that's what that meeting was all about. So that's what that meeting was all about. You know, it becomes a focal point for the later. 15		adopted by Medicare. I don't remember the technical	12	Q.	Did they tell you any other reason why they
A No. 2 Do you know if Heller had requested that you be at the meeting? A Job would book those revenues accordingly. They felt that they were booking more than what they should be booking, and they talked to Heller about it. And right before that meeting — there wasn't any big consternation. If anything, Heller was coming up to visit with them. Heler had done the audits and had been satisfied. That day, because they wanted me to be there, I went over. And Heller had their attorney, two of their health care guys, lenders, I think they had four their health care guys, lenders, I think they had four Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was, but it was to reach out to future services and pull those into the present. So there was no crisis that was a part of that meeting at ali. It was a very pleasant meeting and it lasted the force and I left. There wasn't ever any mention of a problem by Heller. In fact, some of the documents that you should have show the correspondence where they even made suggestions as to how to enhance the borrowing base. So that's what that meeting was all about. You know, it becomes a focal point for the later A. No. I don't know that. A. Well, at this point—it represented a very big investment of my wife and myself and this was issue that wan't insignificant. So I went over an was satisfied when I left there that the issue was resolved. A. Well, at this point—it represented a very list guite measure of an important my wife and myself and this was issue that wan't insignificant. So I went over an was satisfied when I left there that the issue was resolved. A. No. 2. Do you know that. A. No. 2. Do			13	wanted y	ou there?
They felt that they were booking more than what they should be booking, and they talked to Heller about it. And right before that meeting — there wasn't any big consternation. If anything, Heller was coming up to visit with them. Heller had done the audits and had been satisfied. That day, because they wanted me to be there, the reaching and they served land they are solved. I went over. And Heller had their attorney, two of their health care guys, lenders, I think they had four their health care guys, lenders, I think they had four their health care guys, lenders, I think they had four the borrowing base and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what the borrowing base and different ways to interpret what the borrowing base and different ways to interpret what the borrowing base and different ways to interpret what the participation of the present. So there was no crisis that was a part of that meeting, Heller was a very pleasant meeting and it lasted shout an hour and a half and they served lunch in the office and I left. There wasn't ever any mention of a problem by Heller. In fact, some of the documents that you should have show the correspondence where they even the some of the documents that you should have show the correspondence where they even the some of the documents that you should have show the correspondence where they even that wasn't insignificant. So I went over any was a that wasn't insignificant. So I went over any seaso that wasn't insignificant. So I went over any was a statisfied when I left there that the issue was issue that wasn't insignificant. So I went over any seaso that wasn't insignificant. So I went over any seaso that wasn't insignificant. So I went over any seaso that wasn't insignificant. So I went over any seaso that wasn't insignificant. So I went over any seaso that wasn't insignificant. So I went wasn't insignificant. So I went wasn't insignificant. So I went wasn't insignificant. So I wen		•	14	A.	No.
They felt that they were booking more than what they should be booking, and they talked to Heller and bout it. And right before that meeting — there wasn't any big consternation. If anything, Heller was coming up to visit with them. Heller had done the audits and had been satisfied. That day, because they wanted me to be there, and the lath trace guys, lenders, I think they had four their health care guys, lenders, I think they had four their health care guys, lenders, I think they had four their health care guys, lenders, I think they had four their health care guys, lenders, I think they had four their health care guys, lenders, I think they had four their health care guys, lenders, I think they had four their health care guys, lenders, I think they had four their health care guys, lenders, I think they had four their health care guys, lenders, I think they had four their health care guys, lenders, I think they had four their health care guys, lenders, I think they had four their health care guys, lenders, I think they had four their health care guys, lenders, I think they had four their health care guys, lenders, I think they had four their health care guys, lenders, I think they had four the health care guys, lenders, I think they had four their health care guys, lenders, I think they had four their health care guys, lenders, I think they had four the health care guys, lenders, I think they had four the popple in total. And, of course, the people that run the meeting the berrowing base tresolved. There was a discussion that they all had about the borrowing base and different ways to interpret what the westing, Heller was satisfied than although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, and in fact, they came up with a creative way, and in fact, they came up with a creative way, and in fact, they came up with a creative way, and in the self the present. So there was no crisis that was a part of that the self that the health cane guys head of			15	Q.	Do you know if Heller had requested that you
what they should be booking, and they talked to Heiler about it. And right before that meeting — there wasn't ap to visit with them. Heller had done the audits and had been satisfied. That day, because they wanted me to be there, I went over. And Heller had their attorney, two of their health care guys, lenders, I think they had four their health care guys, lenders, I think they had four Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there way, I can't remember exactly what it was, but it was to reach out to future services and pull those into the present. So there was no crisis that was a part of that meeting at all. I t was a very pleasant meeting and it iasted about an hour and a half and they served lunch in the office and I left. There wasn't ever any mention of a problem by Heller. In fact, some of the documents that you should have show the correspondence where they even made suggestions as to how to enhance the borrowing base. So that's what that meeting was all about. You know, it becomes a focal point for the later A. I don't know that. Q. Why were you at the meeting? A. Well, at this point—it represented a very list point at his point—it represented a very list point was risinsignificant. So I went over any was satisfied when I left there that the issue was resolved. C. Other than what you just said, is there any was satisfied when I left there that the issue was resolved. A. No. I didn't play any role. A. No. I didn't play any role. A. No. I didn't play any role. C. At some point did Pam Jones inform you of the results of an audit concerning the borrowing base certificates? A. Probably. I mean, do you mean in a neget sense? C. Either negative or positive. Did she tell you there had been an audit done of the borrowing base certificates? A. I don't kno				be at the	meeting?
about it. And right before that meeting — there wasn't any big consternation. If anything, Heller was coming up to visit with them. Heller had done the audits and 21 had been satisfied. That day, because they wanted me to be there, 22 was satisfied when I left there that the issue was resolved. I went over. And Heller had their attorney, two of their health care guys, lenders, I think they had four 24 Q. Other than what you just said, is there any 30 resolved. Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was, but it was to reach out to future services and pull those into the prosent. So there was no crisis that was a part of that meeting at all. It was a very pleasant meeting and it lasted about an hour and a half and they served funch in the office and I left. There wasn't ever any mention of a problem by Heller. In fact, some of the documents that you should have show the correspondence where they even made suggestions as to how to enhance the borrowing base. So that's what that meeting was all about. You know, it becomes a focal point for the later 20 Why would sat to Indy Edwards.		•			
any big consternation. If anything, Heller was coming up to visit with them. Heller had done the audits and had been satisfied. That day, because they wanted me to be there, I want over. And Heller had their attorney, two of their health care guys, lenders, I think they had four their health care guys, lenders, I think they had four their health care guys, lenders, I think they had four people in total. And, of course, the people that run Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was, but it was to reach out to future services and pull those into the present. So there was no crisis that was a part of that shour and a half and they served lunch in the office and I left. There wasn't ever any mention of a problem by Heller. In fact, some of the documents that you should have show the correspondence where they even made suggestions as to how to enhance the borrowing base. So that's what that meeting was all about. You know, it becomes a focal point for the later A. She told that to Indy Edwards.		•		Ο.	Why were you at the meeting?
big investment of my wife and myself and this was a big investment of my wife and myself and this was a lissue that wasn't insignificant. So I went over and was satisfied. That day, because they wanted me to be there, I went over. And Heller had their attorney, two of their health care guys, lenders, I think they had four was satisfied when I left there that the issue was resolved. The was a discussion that they had four meeting, Heller was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was, but it was to reach out to future services and pull those into the present. So there was no crisis that was a part of that meeting at all. It was a very pleasant meeting and it lasted sobout an hour and a half and they served lunch in the office and I left. There wasn't ever any mention of a problem by Heller. In fact, some of the documents that you should have show the correspondence where they even made suggestions as to how to enhance the borrowing base. So that's what that meeting was all about. You know, it becomes a focal point for the later 20 big investment of my wife and myself and thei size was astisfied when I left there that the issue was resolved. 21 issue that wasn't insignificant. So I went over and was astisfied when I left there that the issue was resolved. 22 condition of I left there that the issue was resolved. 23 condition of I left there that the issue was resolved. 24 condition of I left there that the issue was resolved. 25 d. Other than what you just said, is there any other reason why you were at the meeting? 26 A. No. I didn't play any role. 3 Q. At some point did Pam Jones inform you of the results of an audit concerning the borrowing base certificates? 3 Q. Either negative or positive. Did she tell					·
had been satisfied. That day, because they wanted me to be there, their health care guys, lenders, I think they had four the reason why you were at the meeting? A. No. I didn't play any role. A. No I didn't play any role. A. No I didn't play any role. A. No Cher than what you just said, is there any the resolved. A. No. I didn't play any role. A. No I didn't play any role. A. No I didn't play any role. A. Probably. I mean, do you head in a left meeting? A. I know Helier and the meeting and it lasted the p		•			
That day, because they wanted me to be there, was a like when it left there that the issue was resolved. There was a discussion that they all had about the behaving base and different ways to interpret what the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was, but it was to reach out to future services and pull those into the present. So there was no crisis that was a part of that meeting at all. It was a very pleasant meeting and it lasted about about a problem by Heller. In fact, some of the documents that you should have show the correspondence where they even made suggestions as to how to enhance the borrowing base. So that's what that meeting was all about. You know, it becomes a focal point for the later 20		•		=	-
I went over. And Heller had their attorney, two of their health care guys, lenders, I think they had four 30 31 32 33 34 35 35 36 36 36 37 38 38 39 30 30 30 30 30 30 30 30 30					
their health care guys, lenders, I think they had four 30 32 1 people in total. And, of course, the people that run Managed Healthcare were there, Indy Edwards and Pam 3 Jones and I think someone else. 3 Q. At some point did Pam Jones inform you of the results of an audit concerning the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. 9 And in fact, they came up with a creative way, 1 can't remember exactly what it was, but it was to reach out to future services and pull those into the present. So there was no crisis that was a part of that meeting at all. 11 It was a very pleasant meeting and it lasted about an hour and a half and they served lunch in the office and I left. There wasn't ever any mention of a problem by Heller. In fact, some of the documents that you should have show the correspondence where they even made suggestions as to how to enhance the borrowing base. So that's what that meeting was all about. 10 Other reason why you were at the meeting? A. No. I didn't play any role. 3 Q. At some point did Pam Jones inform you of the results of an audit concerning the borrowing base certificates? A. Probably. I mean, do you mean in a negative or positive. Did she tell you there had been an audit done of the borrowing base certificates? A. I know Heller sent auditors in there all the time, so that wouldn't be unusual. 4 I know doyou know that? A. I just know because Pam would tell me. 9 Why would she tell you that? A. I mean, I used to get reports faxed to my house. We did own the company. I mean, I knew general health of the company. I mean, I knew general health of the company. I mean, I knew general health of the company. I mean, I knew general health of the company. I mean, I knew general health of the company. I mean, I knew general health of the company. I mean, I knew house. So that's what that meeting was all about.		**			
people in total. And, of course, the people that run Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was, but it was to reach out to future services and pull those into the present. So there was no crisis that was a part of that about an hour and a half and they served lunch in the office and I left. There wasn't ever any mention of a problem by Heller. In fact, some of the documents that you should have show the correspondence where they even made suggestions as to how to enhance the borrowing base. So that's what that meeting was all about. You know, it becomes a focal point for the later J other reason why you were at the meeting? A. No. I didn't play any role. A. Probably. I mean, do you mean in a nege sense? A. Probably. I mean, do you mean in a nege sense? A. I know Heller sent auditone of the borrowing base certificates? A. I know Heller sent auditone of the borrowing base certificates? A. I just know because Pam would tell me. A. I mean, I weed to get reports f					
the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. I can't remember exactly what it was, but it was to reach out to future services and pull those into the present. So there was no crisis that was a part of that about an hour and a half and they served lunch in the office and I left. There wasn't ever any mention of a problem by Heller. In fact, some of the documents that you should have show the correspondence where they even made suggestions as to how to enhance the borrowing base. So that's what that meeting was all about. 1 do ther reason why you were at the meeting? A. No. I didn't play any role. 3 Q. At some point did Pam Jones inform you of the results of an audit concerning the borrowing base certificates? 6 A. Probably. I mean, do you mean in a negative sense? 8 Q. Either negative or positive. Did she tell you there had been an audit done of the borrowing base certificates? 10 certificates? 8 Q. Either negative or positive. Did she tell you there had been an audit done of the borrowing base certificates? 1 A. No. I didn't play any role. 3 Q. At some point did Pam Jones the borrowing base certificates? 4 A. Probably. I mean, do you mean in a negative sense? 8 Q. Either negative or positive. Did she tell you there had been an audit done of the borrowing base certificates? 1 A. I know Heller sent auditors in there all the time, so that wouldn't be unusual. 1 A. I know because Pam would tell me. 1 A. I just know because Pam would tell me. 2 A. No. I didn't play any role. 3 Q. At some point did Pam Jones tell you she would no longer certify the borrowing base certificates? 2 A. She told that to Indy Edwards.	24 -		24	Q.	Other than what you just said, is there any
2 Managed Healthcare were there, Indy Edwards and Pam 3 Jones and I think someone else. 4 There was a discussion that they all had about 5 the borrowing base and different ways to interpret what 6 they were basically including in it. At the end of that 7 meeting, Heller was satisfied that although there was 8 some overstatement, there wasn't any big problem. 9 And in fact, they came up with a creative way, 10 I can't remember exactly what it was, but it was to 11 reach out to future services and pull those into the 12 present. So there was no crisis that was a part of that 13 meeting at all. 14 It was a very pleasant meeting and it lasted 15 about an hour and a half and they served lunch in the 16 office and I left. There wasn't ever any mention of a 17 problem by Heller. In fact, some of the documents that 18 you should have show the correspondence where they even 19 made suggestions as to how to enhance the borrowing base. 2 You know, it becomes a focal point for the later 2 A. No. I didn't play any role. 3 Q. At some point did Pam Jones inform you of the results of an audit concerning the borrowing base certificates? 4 A. Probably. I mean, do you mean in a negative or positive. Did she tell you there had been an audit done of the borrowing base certificates? 4 A. I know Heller sent auditors in there all the time, so that wouldn't be unusual. 4 It was a very pleasant meeting and it lasted 4 A. I just know because Pam would tell me. 4 Ji pust know because Pam would tell me. 5 Q. Why would she tell you that? 6 A. Probably. I mean, do you mean in a negative or positive. Did she tell you there had been an audit concerning the borrowing base certificates? A. I know Heller sent auditors in there all the time, so that wouldn't be unusual. 6 A. I mean, I used to get reports faxed to my house. We did own the company. I mean, I knew general health of the company, and I in general knew on longer certify the borrowing base certificates? 9 A. She told that to Indy Edwards.			1		•
3 Jones and I think someone else. 4 There was a discussion that they all had about 5 the borrowing base and different ways to interpret what 6 they were basically including in it. At the end of that 7 meeting, Heller was satisfied that although there was 8 some overstatement, there wasn't any big problem. 9 And in fact, they came up with a creative way, 10 I can't remember exactly what it was, but it was to 11 reach out to future services and pull those into the 12 present. So there was no crisis that was a part of that 13 meeting at all. 14 It was a very pleasant meeting and it lasted 15 about an hour and a half and they served lunch in the 16 office and I left. There wasn't ever any mention of a 17 problem by Heller. In fact, some of the documents that 18 you should have show the correspondence where they even 19 made suggestions as to how to enhance the borrowing 19 base. 20 At some point did Pam Jones inform you of the 16 results of an audit concerning the borrowing base 20 certificates? A. Probably. I mean, do you mean in a negative or positive. Did she tell you 21 there had been an audit done of the borrowing base 22 Why would rid be unusual. 23 Q. How do you know that? 3 Q. How do you know that? 4 A. I just know because Pam would tell me. 4 A. I mean, I used to get reports faxed to my 3 house. We did own the company. I mean, I knew 3 general health of the company, and I in general knew 3 what was going on. 4 So that's what that meeting was all about. 4 You know, it becomes a focal point for the later 4 A. She told that to Indy Edwards.			۱,		32
There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was, but it was to reach out to future services and pull those into the present. So there was no crisis that was a part of that meeting at all. It was a very pleasant meeting and it lasted about an hour and a half and they served lunch in the office and I left. There wasn't ever any mention of a problem by Heller. In fact, some of the documents that you should have show the correspondence where they even made suggestions as to how to enhance the borrowing base. So that's what that meeting was all about. You know, it becomes a focal point for the later 4 results of an audit concerning the borrowing base certificates? A. Probably. I mean, do you mean in a negative sense? Sense? A. Probably. I mean, do you mean in a negative sense? Sense? A. Probably. I mean, do you mean in a negative sense? Sense? A. Probably. I mean, do you mean in a negative sense? Sense? A. Probably. I mean, do you mean in a negative sense? Sense? A. Probably. I mean, do you mean in a negative sense? Sense? A. Probably. I mean, do you mean in a negative sense? Sense? A. I know Heller sent auditors in there all the time, so that wouldn't be unusual. A. I know Heller sent auditors in there all the time, so that wouldn't be unusual. A. I problem by do you know that? A. I just know because Pam would tell me. A. I mean, I used to get reports faxed to my house. We did own the company. I mean, I knew general health of the company, and I in general knew was going on. So that's what that meeting was all about. You know, it becomes a focal point for the later 22 A. She told that to Indy Edwards.		people in total. And, of course, the people that run			son why you were at the meeting?
5 the borrowing base and different ways to interpret what 6 they were basically including in it. At the end of that 7 meeting, Heller was satisfied that although there was 8 some overstatement, there wasn't any big problem. 9 And in fact, they came up with a creative way, 10 I can't remember exactly what it was, but it was to 11 reach out to future services and pull those into the 12 present. So there was no crisis that was a part of that 13 meeting at all. 14 It was a very pleasant meeting and it lasted 15 about an hour and a half and they served lunch in the 16 office and I left. There wasn't ever any mention of a 17 problem by Heller. In fact, some of the documents that 18 you should have show the correspondence where they even 19 made suggestions as to how to enhance the borrowing 19 base. So that's what that meeting was all about. 20 You know, it becomes a focal point for the later 21 A. She told that to Indy Edwards. 22 A. She told that to Indy Edwards.	2	people in total. And, of course, the people that run Managed Healthcare were there, Indy Edwards and Pam	2	A.	son why you were at the meeting? No. I didn't play any role.
6 they were basically including in it. At the end of that 7 meeting, Heller was satisfied that although there was 8 some overstatement, there wasn't any big problem. 9 And in fact, they came up with a creative way, 10 I can't remember exactly what it was, but it was to 11 reach out to future services and pull those into the 12 present. So there was no crisis that was a part of that 13 meeting at all. 14 It was a very pleasant meeting and it lasted 15 about an hour and a half and they served lunch in the 16 office and I left. There wasn't ever any mention of a 17 problem by Heller. In fact, some of the documents that 18 you should have show the correspondence where they even 19 made suggestions as to how to enhance the borrowing 19 base. So that's what that meeting was all about. You know, it becomes a focal point for the later 6 A. Probably. I mean, do you mean in a negative or positive. Did she tell you 5 ense? 8 Q. Either negative or positive. Did she tell you 6 A. I know Heller sent auditors in there all the time, so that wouldn't be unusual. 10 Q. How do you know that? 11 A. I know because Pam would tell me. 12 Q. Why would she tell you that? 13 Q. How do you know that? 14 A. I just know because Pam would tell me. 15 Q. Why would she tell you that? 16 A. I mean, I used to get reports faxed to my house. We did own the company. I mean, I knew general health of the company, and I in general knew as going on. 18 you should have show to enhance the borrowing base. 20 Q. At some point did Pam Jones tell you she wou no longer certify the borrowing base certificates? A. She told that to Indy Edwards.	2 3	people in total. And, of course, the people that run Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else.	2	A. Q.	son why you were at the meeting? No. I didn't play any role. At some point did Pam Jones inform you of the
7 sense? 8 some overstatement, there wasn't any big problem. 9 And in fact, they came up with a creative way, 10 I can't remember exactly what it was, but it was to 11 reach out to future services and pull those into the 12 present. So there was no crisis that was a part of that 13 meeting at all. 14 It was a very pleasant meeting and it lasted 15 about an hour and a half and they served lunch in the 16 office and I left. There wasn't ever any mention of a 17 problem by Heller. In fact, some of the documents that 18 you should have show the correspondence where they even 19 made suggestions as to how to enhance the borrowing 19 base. 20 Certificates? 10 certificates? 11 A. I know Heller sent auditors in there all the time, so that wouldn't be unusual. 12 time, so that wouldn't be unusual. 13 Q. How do you know that? 14 A. I just know because Pam would tell me. 15 Q. Why would she tell you that? 16 A. I mean, I used to get reports faxed to my house. We did own the company. I mean, I knew general health of the company. I mean, I knew general health of the company, and I in general knew what was going on. 20 Q. At some point did Pam Jones tell you she wou no longer certify the borrowing base certificates? 21 A. She told that to Indy Edwards.	2 3	people in total. And, of course, the people that run Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about	2 3 4	A. Q. results of	son why you were at the meeting? No. I didn't play any role. At some point did Pam Jones inform you of the an audit concerning the borrowing base
8 some overstatement, there wasn't any big problem. 9 And in fact, they came up with a creative way, 10 I can't remember exactly what it was, but it was to 11 reach out to future services and pull those into the 12 present. So there was no crisis that was a part of that 13 meeting at all. 14 It was a very pleasant meeting and it lasted 15 about an hour and a half and they served lunch in the 16 office and I left. There wasn't ever any mention of a 17 problem by Heller. In fact, some of the documents that 18 you should have show the correspondence where they even 19 made suggestions as to how to enhance the borrowing 19 base. 10 Left remember exactly what it was to 10 certificates? 11 A. I know Heller sent auditors in there all the time, so that wouldn't be unusual. 12 Use there had been an audit done of the borrowing base and it lasted 13 Q. How do you know that? 14 A. I just know because Pam would tell me. 15 Q. Why would she tell you that? 16 A. I mean, I used to get reports faxed to my house. We did own the company. I mean, I knew general health of the company, and I in general known that was going on. 16 Q. At some point did Pam Jones tell you she would that to Indy Edwards. 17 You know, it becomes a focal point for the later 18 Q. How do you know that? 19 Why would she tell you that? 10 A. I mean, I used to get reports faxed to my house. We did own the company. I mean, I knew general health of the company, and I in general knew what was going on. 18 Q. How do you know that? 19 A. I pust know because Pam would tell me. 20 A. I mean, I used to get reports faxed to my house. We did own the company. I mean, I knew general health of the company and I in general knew what was going on. 21 Q. At some point did Pam Jones tell you she would tell me. 22 A. She told that to Indy Edwards.	2 3 4	people in total. And, of course, the people that run Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what	2 3 4 5	A. Q. results of certificate	son why you were at the meeting? No. I didn't play any role. At some point did Pam Jones inform you of the an audit concerning the borrowing base es?
And in fact, they came up with a creative way, I can't remember exactly what it was, but it was to reach out to future services and pull those into the present. So there was no crisis that was a part of that meeting at all. It was a very pleasant meeting and it lasted about an hour and a half and they served lunch in the office and I left. There wasn't ever any mention of a problem by Heller. In fact, some of the documents that you should have show the correspondence where they even made suggestions as to how to enhance the borrowing base. So that's what that meeting was all about. You know, it becomes a focal point for the later 9 there had been an audit done of the borrowing base certificates? 10 certificates? A. I know Heller sent auditors in there all the time, so that wouldn't be unusual. 12 d. How do you know that? A. I just know because Pam would tell me. 13 Q. Why would she tell you that? A. I mean, I used to get reports faxed to my house. We did own the company. I mean, I knew general health of the company, and I in general knew what was going on. 20 Q. At some point did Pam Jones tell you she wou no longer certify the borrowing base certificates? A. She told that to Indy Edwards.	2 3 4 5	people in total. And, of course, the people that run Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that	2 3 4 5 6	A. Q. results of certificate A.	son why you were at the meeting? No. I didn't play any role. At some point did Pam Jones inform you of the an audit concerning the borrowing base
10 I can't remember exactly what it was, but it was to 11 reach out to future services and pull those into the 12 present. So there was no crisis that was a part of that 13 meeting at all. 14 It was a very pleasant meeting and it lasted 15 about an hour and a half and they served lunch in the 16 office and I left. There wasn't ever any mention of a 17 problem by Heller. In fact, some of the documents that 18 you should have show the correspondence where they even 19 made suggestions as to how to enhance the borrowing 19 base. So that's what that meeting was all about. You know, it becomes a focal point for the later 10 certificates? A. I know Heller sent auditors in there all the time, so that wouldn't be unusual. 12 time, so that wouldn't be unusual. 13 Q. How do you know that? A. I just know because Pam would tell me. 15 Q. Why would she tell you that? A. I mean, I used to get reports faxed to my house. We did own the company. I mean, I knew general health of the company, and I in general knew was going on. 20 Q. At some point did Pam Jones tell you she wou no longer certify the borrowing base certificates? 21 You know, it becomes a focal point for the later 22 A. She told that to Indy Edwards.	2 3 4 5 6	people in total. And, of course, the people that run Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was	2 3 4 5 6 7	A. Q. results of certificate A.	No. I didn't play any role. At some point did Pam Jones inform you of the an audit concerning the borrowing base es? Probably. I mean, do you mean in a negative
reach out to future services and pull those into the present. So there was no crisis that was a part of that meeting at all. It was a very pleasant meeting and it lasted about an hour and a half and they served lunch in the office and I left. There wasn't ever any mention of a problem by Heller. In fact, some of the documents that you should have show the correspondence where they even made suggestions as to how to enhance the borrowing base. So that's what that meeting was all about. You know, it becomes a focal point for the later 11	2 3 4 5 6 7	people in total. And, of course, the people that run Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was	2 3 4 5 6 7	A. Q. results of certificate A. sense? Q.	No. I didn't play any role. At some point did Pam Jones inform you of the an audit concerning the borrowing base es? Probably. I mean, do you mean in a negative Either negative or positive. Did she tell you
present. So there was no crisis that was a part of that meeting at all. It was a very pleasant meeting and it lasted about an hour and a half and they served lunch in the office and I left. There wasn't ever any mention of a problem by Heller. In fact, some of the documents that you should have show the correspondence where they even made suggestions as to how to enhance the borrowing base. So that's what that meeting was all about. You know, it becomes a focal point for the later 12 time, so that wouldn't be unusual. 13 Q. How do you know that? A. I just know because Pam would tell me. 15 Q. Why would she tell you that? A. I mean, I used to get reports faxed to my house. We did own the company. I mean, I knew general health of the company, and I in general kn what was going on. Q. At some point did Pam Jones tell you she wou no longer certify the borrowing base certificates? A. She told that to Indy Edwards.	2 3 4 5 6 7 8	people in total. And, of course, the people that run Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem.	2 3 4 5 6 7 8	A. Q. results of certificate A. sense? Q.	No. I didn't play any role. At some point did Pam Jones inform you of the an audit concerning the borrowing base es? Probably. I mean, do you mean in a negative Either negative or positive. Did she tell you
It was a very pleasant meeting and it lasted about an hour and a half and they served lunch in the office and I left. There wasn't ever any mention of a problem by Heller. In fact, some of the documents that you should have show the correspondence where they even made suggestions as to how to enhance the borrowing base. So that's what that meeting was all about. 13 Q. How do you know that? A. I just know because Pam would tell me. 14 A. I just know because Pam would tell me. 15 Q. Why would she tell you that? 16 A. I mean, I used to get reports faxed to my house. We did own the company. I mean, I knew general health of the company, and I in general kn what was going on. 20 Q. At some point did Pam Jones tell you she wou no longer certify the borrowing base certificates? 21 A. She told that to Indy Edwards.	2 3 4 5 6 7 8	people in total. And, of course, the people that run Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way,	2 3 4 5 6 7 8	A. Q. results of certificate A. sense? Q. there had	No. I didn't play any role. At some point did Pam Jones inform you of the an audit concerning the borrowing base es? Probably. I mean, do you mean in a negative Either negative or positive. Did she tell you been an audit done of the borrowing base
It was a very pleasant meeting and it lasted about an hour and a half and they served lunch in the office and I left. There wasn't ever any mention of a problem by Heller. In fact, some of the documents that you should have show the correspondence where they even made suggestions as to how to enhance the borrowing base. So that's what that meeting was all about. You know, it becomes a focal point for the later 14 A. I just know because Pam would tell me. 9. Why would she tell you that? 15 A. I mean, I used to get reports faxed to my house. We did own the company. I mean, I knew general health of the company, and I in general known that was going on. 19 20 21 22 A. She told that to Indy Edwards.	2 3 4 5 6 7 8 9	people in total. And, of course, the people that run Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was, but it was to	2 3 4 5 6 7 8 9	A. Q. results of certificate A. sense? Q. there had certificate	No. I didn't play any role. At some point did Pam Jones inform you of the an audit concerning the borrowing base es? Probably. I mean, do you mean in a negative Either negative or positive. Did she tell you been an audit done of the borrowing base
about an hour and a half and they served lunch in the office and I left. There wasn't ever any mention of a problem by Heller. In fact, some of the documents that you should have show the correspondence where they even made suggestions as to how to enhance the borrowing base. So that's what that meeting was all about. You know, it becomes a focal point for the later 15 Q. Why would she tell you that? A. I mean, I used to get reports faxed to my house. We did own the company. I mean, I knew general health of the company, and I in general kn what was going on. Q. At some point did Pam Jones tell you she wou no longer certify the borrowing base certificates? A. She told that to Indy Edwards.	2 3 4 5 6 7 8 9	people in total. And, of course, the people that run Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was, but it was to reach out to future services and pull those into the	2 3 4 5 6 7 8 9 10	A. Q. results of certificate A. sense? Q. there had certificate A.	No. I didn't play any role. At some point did Pam Jones inform you of the fan audit concerning the borrowing base es? Probably. I mean, do you mean in a negative Either negative or positive. Did she tell you die been an audit done of the borrowing base es? I know Heller sent auditors in there all the
16 office and I left. There wasn't ever any mention of a 17 problem by Heller. In fact, some of the documents that 18 you should have show the correspondence where they even 19 made suggestions as to how to enhance the borrowing 19 base. 10 A. I mean, I used to get reports faxed to my 10 house. We did own the company. I mean, I knew 11 general health of the company, and I in general knew 12 what was going on. 13 Q. At some point did Pam Jones tell you she wou 14 no longer certify the borrowing base certificates? 15 A. I mean, I used to get reports faxed to my 16 house. We did own the company. I mean, I knew 18 general health of the company and I in general knew 19 what was going on. 20 Q. At some point did Pam Jones tell you she wou 21 no longer certify the borrowing base certificates? 22 A. She told that to Indy Edwards.	2 3 4 5 6 7 8 9	people in total. And, of course, the people that run Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was, but it was to reach out to future services and pull those into the present. So there was no crisis that was a part of that	2 3 4 5 6 7 8 9 10 11	A. Q. results of certificate A. sense? Q. there had certificate A. time, so	No. I didn't play any role. At some point did Pam Jones inform you of the an audit concerning the borrowing base es? Probably. I mean, do you mean in a negative Either negative or positive. Did she tell you is been an audit done of the borrowing base es? I know Heller sent auditors in there all the that wouldn't be unusual.
problem by Heller. In fact, some of the documents that you should have show the correspondence where they even made suggestions as to how to enhance the borrowing base. So that's what that meeting was all about. You know, it becomes a focal point for the later 17 house. We did own the company. I mean, I knew general health of the company, and I in general kn what was going on. 20 Q. At some point did Pam Jones tell you she wou no longer certify the borrowing base certificates? A. She told that to Indy Edwards.	2 3 4 5 6 7 8 9 10 11 12	people in total. And, of course, the people that run Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was, but it was to reach out to future services and pull those into the present. So there was no crisis that was a part of that meeting at all.	2 3 4 5 6 7 8 9 10 11 12 13	A. Q. results of certificate A. sense? Q. there had certificate A. time, so Q.	No. I didn't play any role. At some point did Pam Jones inform you of the fan audit concerning the borrowing base es? Probably. I mean, do you mean in a negative Either negative or positive. Did she tell you been an audit done of the borrowing base es? I know Heller sent auditors in there all the that wouldn't be unusual. How do you know that?
you should have show the correspondence where they even made suggestions as to how to enhance the borrowing base. So that's what that meeting was all about. You know, it becomes a focal point for the later 18 general health of the company, and I in general known and I in general known are what was going on. 20 Q. At some point did Pam Jones tell you she wou no longer certify the borrowing base certificates? 22 A. She told that to Indy Edwards.	2 3 4 5 6 7 8 9 10 11 12 13 14	people in total. And, of course, the people that run Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was, but it was to reach out to future services and pull those into the present. So there was no crisis that was a part of that meeting at all. It was a very pleasant meeting and it lasted	2 3 4 5 6 7 8 9 10 11 12 13	A. Q. results of certificate A. sense? Q. there had certificate A. time, so Q. A.	No. I didn't play any role. At some point did Pam Jones inform you of the an audit concerning the borrowing base es? Probably. I mean, do you mean in a negative Either negative or positive. Did she tell you deen an audit done of the borrowing base es? I know Heller sent auditors in there all the that wouldn't be unusual. How do you know that? I just know because Pam would tell me.
19 made suggestions as to how to enhance the borrowing base. 20 Q. At some point did Pam Jones tell you she wou 21 no longer certify the borrowing base certificates? 22 You know, it becomes a focal point for the later 23 A. She told that to Indy Edwards.	2 3 4 5 6 7 8 9 10 11 11 12 13 14	people in total. And, of course, the people that run Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was, but it was to reach out to future services and pull those into the present. So there was no crisis that was a part of that meeting at all. It was a very pleasant meeting and it lasted about an hour and a half and they served lunch in the	2 3 4 5 6 7 8 9 10 11 12 13 14	A. Q. results of certificate A. sense? Q. there had certificate A. time, so Q. A. Q.	No. I didn't play any role. At some point did Pam Jones inform you of the an audit concerning the borrowing base es? Probably. I mean, do you mean in a negative Either negative or positive. Did she tell you deen an audit done of the borrowing base es? I know Heller sent auditors in there all the that wouldn't be unusual. How do you know that? I just know because Pam would tell me.
19 made suggestions as to how to enhance the borrowing base. 20 Q. At some point did Pam Jones tell you she wou 21 no longer certify the borrowing base certificates? 22 You know, it becomes a focal point for the later 23 A. She told that to Indy Edwards.	2 3 4 5 6 7 8 9 10 11 11 12 13 14 15 16	people in total. And, of course, the people that run Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was, but it was to reach out to future services and pull those into the present. So there was no crisis that was a part of that meeting at all. It was a very pleasant meeting and it lasted about an hour and a half and they served lunch in the office and I left. There wasn't ever any mention of a	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A. Q. results of certificate A. sense? Q. there had certificate A. time, so Q. A. Q. A.	No. I didn't play any role. At some point did Pam Jones inform you of the fan audit concerning the borrowing base es? Probably. I mean, do you mean in a negative Either negative or positive. Did she tell you di been an audit done of the borrowing base es? I know Heller sent auditors in there all the that wouldn't be unusual. How do you know that? I just know because Pam would tell me. Why would she tell you that? I mean, I used to get reports faxed to my
base. So that's what that meeting was all about. You know, it becomes a focal point for the later 20 Q. At some point did Pam Jones tell you she wou 21 no longer certify the borrowing base certificates? 22 A. She told that to Indy Edwards.	2 3 4 5 6 7 8 9 10 11 11 12 13 14 15 16 17	people in total. And, of course, the people that run Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was, but it was to reach out to future services and pull those into the present. So there was no crisis that was a part of that meeting at all. It was a very pleasant meeting and it lasted about an hour and a half and they served lunch in the office and I left. There wasn't ever any mention of a problem by Heller. In fact, some of the documents that	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A. Q. results of certificate A. sense? Q. there had certificate A. time, so Q. A. Q. A. house.	No. I didn't play any role. At some point did Pam Jones inform you of the an audit concerning the borrowing base es? Probably. I mean, do you mean in a negative Either negative or positive. Did she tell you been an audit done of the borrowing base es? I know Heller sent auditors in there all the that wouldn't be unusual. How do you know that? I just know because Pam would tell me. Why would she tell you that? I mean, I used to get reports faxed to my we did own the company. I mean, I knew the
22 You know, it becomes a focal point for the later 22 A. She told that to Indy Edwards.	2 3 4 5 6 7 8 9 10 11 11 12 13 14 15 16 17 17 18 18 18 18 18 18 18 18 18 18 18 18 18	people in total. And, of course, the people that run Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was, but it was to reach out to future services and pull those into the present. So there was no crisis that was a part of that meeting at all. It was a very pleasant meeting and it lasted about an hour and a half and they served lunch in the office and I left. There wasn't ever any mention of a problem by Heller. In fact, some of the documents that you should have show the correspondence where they even	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. Q. results of certificate A. sense? Q. there had certificate A. time, so Q. A. Q. A. house. Mageneral	No. I didn't play any role. At some point did Pam Jones inform you of the fan audit concerning the borrowing base es? Probably. I mean, do you mean in a negative Either negative or positive. Did she tell you di been an audit done of the borrowing base es? I know Heller sent auditors in there all the that wouldn't be unusual. How do you know that? I just know because Pam would tell me. Why would she tell you that? I mean, I used to get reports faxed to my We did own the company. I mean, I knew the health of the company, and I in general knew
22 You know, it becomes a focal point for the later 22 A. She told that to Indy Edwards.	2 3 4 5 6 7 8 9 10 11 11 12 13 14 15 16 17 17 18 18 18 18 18 18 18 18 18 18 18 18 18	people in total. And, of course, the people that run Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was, but it was to reach out to future services and pull those into the present. So there was no crisis that was a part of that meeting at all. It was a very pleasant meeting and it lasted about an hour and a half and they served lunch in the office and I left. There wasn't ever any mention of a problem by Heller. In fact, some of the documents that you should have show the correspondence where they even made suggestions as to how to enhance the borrowing	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A. Q. results of certificate A. sense? Q. there had certificate A. time, so Q. A. Q. A. house. Manual what was	No. I didn't play any role. At some point did Pam Jones inform you of the fan audit concerning the borrowing base es? Probably. I mean, do you mean in a negative Either negative or positive. Did she tell you di been an audit done of the borrowing base es? I know Heller sent auditors in there all the that wouldn't be unusual. How do you know that? I just know because Pam would tell me. Why would she tell you that? I mean, I used to get reports faxed to my We did own the company. I mean, I knew the health of the company, and I in general knew
	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	people in total. And, of course, the people that run Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was, but it was to reach out to future services and pull those into the present. So there was no crisis that was a part of that meeting at all. It was a very pleasant meeting and it lasted about an hour and a half and they served lunch in the office and I left. There wasn't ever any mention of a problem by Heller. In fact, some of the documents that you should have show the correspondence where they even made suggestions as to how to enhance the borrowing base.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. Q. results of certificate A. sense? Q. there had certificate A. time, so Q. A. Q. A. house. Mageneral what was Q.	No. I didn't play any role. At some point did Pam Jones inform you of the fan audit concerning the borrowing base as? Probably. I mean, do you mean in a negative Either negative or positive. Did she tell you die been an audit done of the borrowing base as? I know Heller sent auditors in there all the that wouldn't be unusual. How do you know that? I just know because Pam would tell me. Why would she tell you that? I mean, I used to get reports faxed to my we did own the company. I mean, I knew the health of the company, and I in general knew as going on. At some point did Pam Jones tell you she would
43 Higation. 23 d. Did they cowards their ten you that:	2 3 4 5 6 7 8 9 10 11 11 11 11 11 11 11 11 11 11 11 11	people in total. And, of course, the people that run Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was, but it was to reach out to future services and pull those into the present. So there was no crisis that was a part of that meeting at all. It was a very pleasant meeting and it lasted about an hour and a half and they served lunch in the office and I left. There wasn't ever any mention of a problem by Heller. In fact, some of the documents that you should have show the correspondence where they even made suggestions as to how to enhance the borrowing base. So that's what that meeting was all about.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. Q. results of certificate A. sense? Q. there had certificate A. time, so Q. A. house. M general what wa	No. I didn't play any role. At some point did Pam Jones inform you of the an audit concerning the borrowing base es? Probably. I mean, do you mean in a negative Either negative or positive. Did she tell you do been an audit done of the borrowing base es? I know Heller sent auditors in there all the that wouldn't be unusual. How do you know that? I just know because Pam would tell me. Why would she tell you that? I mean, I used to get reports faxed to my we did own the company. I mean, I knew the health of the company, and I in general knew as going on. At some point did Pam Jones tell you she would recrtify the borrowing base certificates?
24 Q. Which later litigation? 24 A. I think so.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	people in total. And, of course, the people that run Managed Healthcare were there, Indy Edwards and Pam Jones and I think someone else. There was a discussion that they all had about the borrowing base and different ways to interpret what they were basically including in it. At the end of that meeting, Heller was satisfied that although there was some overstatement, there wasn't any big problem. And in fact, they came up with a creative way, I can't remember exactly what it was, but it was to reach out to future services and pull those into the present. So there was no crisis that was a part of that meeting at all. It was a very pleasant meeting and it lasted about an hour and a half and they served lunch in the office and I left. There wasn't ever any mention of a problem by Heller. In fact, some of the documents that you should have show the correspondence where they even made suggestions as to how to enhance the borrowing base. So that's what that meeting was all about.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. Q. results of certificate A. sense? Q. there had certificate A. time, so Q. A. house. M general what wa	No. I didn't play any role. At some point did Pam Jones inform you of the an audit concerning the borrowing base es? Probably. I mean, do you mean in a negative Either negative or positive. Did she tell you do been an audit done of the borrowing base es? I know Heller sent auditors in there all the that wouldn't be unusual. How do you know that? I just know because Pam would tell me. Why would she tell you that? I mean, I used to get reports faxed to my we did own the company. I mean, I knew the health of the company, and I in general knew as going on. At some point did Pam Jones tell you she would recrtify the borrowing base certificates?

	Case 1::05-cv-111128-NG Document 7	70-4 6	Filled 11/10/2006 Page 10 of 28
	33		35
1	Q. At some point you learned that?	1	default.
2	A. Right.	2	Q. The they was Heller?
3	Q. Do you know or were you told why Pamela Jones	3	A. Um-hum.
	would no longer certify the borrowing base certificates?	4	Q. Do you remember having any communications with
,	A. For the same reasons that I talked about. She	5	Mr. Gardulo as to how the borrowing base certificates
6	felt they were recognizing more revenue from cases, when	6	were being calculated?
7	the cases were finished they wouldn't produce that kind	7	A. Well, I think that he was at that meeting that
8	of revenue.	8	they held. I think that was really the subject.
9	Q. Do you know who Michael Gardulo is?	9	Q. Leaving that meeting aside, because you
10	A. Yes.	10	already told me about that meeting, do you recall any
11	Q. He was the vice president at Heller, correct?	11	other communications between you and Mr. Gardulo
12	A. Right.	12	concerning the calculation of the borrowing base
13	Q. And at some point did you tell Pamela Jones to	13	certificates?
14	contact Mr. Gardulo about the fact that she would no	14	A. No, I don't remember specifically. But I do
15	longer sign the borrowing base certificates?	15	know that when things were falling apart, Gardulo was
16	A. I don't remember doing that.	16	calling often.
17	Q. You have no memory of that at all?	17	Q. Was he calling you?
18	A. I know she talked to him and I could have, but	18	A. Yes.
19	I just don't remember.	19	Q. And do you have any recollection of the type
20	Q. Do you have any memory of telling her to	20	of things that you would discuss when he would call you
21	contact him?	21	when things were, to use your phrase, "falling apart?"
22	A. No.	22	 I don't remember really at all.
23	Q. Are you aware that Pamela Jones recommended to	23	Q. You're aware that National Union provided
24	Michael Gardulo that he talk to you for an explanation	24	insurance coverage to MHCS?
	34		36
1	as to how the borrowing base certificates were being	1	A. Yes.
2	calculated?	2	Q. Did you have any role in obtaining that
3	A. She wouldn't do that, because she knows I	3	coverage during any period of time?
4	never had anything to do with that.	4	A. Other than I told Indy and Pam Jones that we
5	Q. At some point did Mr. Gardulo call or	5	had to have that. That followed a period of time when
6	communicate with you in some fashion in order to get an	6	we regretted not having it for this other sexual
7	explanation as to how the borrowing base certificates	7	harassment case.
8	were being calculated?	8	$oldsymbol{Q}.$ Other than telling Indy and Pam and $oldsymbol{I}$
9	 A. He called me but I don't remember they 	9	assume you mean directors and officers liability?
10	wouldn't come to me with that kind of a question because	10	A. Right.
11	I had no involvement with that.	11	Q. Other than telling Indy Edwards and Pam Jones
12	Q. When you say that he called you, what did Mr.	12	that MHCS needed to obtain directors and officers
13	Gardulo call you to discuss?	13	liability, did you play any other role in the actual
14	A. The only thing that I remember was the time	14	obtaining of the policies?
15	when the company was in bankruptcy, and they were trying	15	A. No.
16	to work a loan for Indy and Pam to buy the company. And	16	Q. Prior to their issuance, did you ever have any
17	he wanted, I think he wanted me to remain on personal	17	communication, you personally, with National Union
18	guarantees for one portion of the loan I'm not sure	18	regarding any directors and officers policies that had
19	exactly which part it was.	19	been issued to MHCS?
-	But I wasn't willing to do, there was	20	A. No.
1	something I wasn't willing to do during that period of	21	Q. Prior to National Union issuing any directors
22	time. And then it was shortly after that that they went	22	and officers liability policies to MHCS, did you ever
23	into court and, the bankruptcy court, and basically told	23	have any communications with IIG about that?
24	judge, you know, they were going to file a motion of	24	A. Yeah, early on. Probably back in the early
9 of :	34 sheets Page 33 t	o 36 o	f 104 10/22/2006 08:07:13 PM

	Case 1:05-cv-11128-NG Document	70-4 6	
	37		39
1	'90s.	1	A. No, I don't know.
2	Q. Do you know when National Union first started	2	MR. TUMILTY: We'll mark this as Exhibit
3	providing MHCS with directors and officers liability	3	3.
-	coverage?	4	(Document marked for identification as
-	A. No.	5	Exhibit No. 3.)
6	Q. I just want to make sure you were clear on the	6	BY MR. TUMILTY;
7	question I asked you two questions ago. When you	7	Q. I'm handing you what the court reporter marked
8	responded early on in the early '90s, that was in	8	as Exhibit 3. It's an affidavit of Pamela Jones in
9	response to a question I had asked you as to whether you	9	Civil Action 02 CV 11553 NG. The pages are numbered at
10	ever had any communications with IIG about policies that	10	the bottom and please turn to page nine. Do you know if
11	National Union was going to issue with respect to MHCS.	11	that's Pamela Jones' signature?
12	Did you understand the question to be that?	12	A. It looks like it to me.
13	 A. I don't ever remember having a conversation 	13	Q. If you turn to page seven. I had asked you
14	with anyone at International about National.	14	earlier if you were aware that Pam Jones recommended to
15	Q. That's what I was trying to get to. So when	15	Mr. Gardulo that he speak to you as to an explanation of
16	you said in the early '90s, were you talking about	16	how the borrowing base certificates were being
17	policies with some other insurer?	17	calculated?
18	A. Yes.	18	A. Um-hum.
19	Q. Thank you for telling me that, but that's not	19	Q. You said she wouldn't have done that. If you
20	what I'm focused on. So it's your testimony to the best	20	look at the paragraph 30 on that page, the second
21	of your memory you never had any communications with	21	sentence states, "Mr. Gardulo began to probe me for
22	anyone at IIG concerning policies that National Union	22	details that I felt should be directed to Mr. Ingoldsby,
23	was going to issue?	23	and I advised Mr. Gardulo that he should speak directly
24	A. People with National or people with IIG?	24	to Mr. Ingoldsby."
-		+	
-	38		40
1	Q. Yes.	1	Does that refresh your recollection at all as
-		1 2	Does that refresh your recollection at all as to whether Pam Jones told Mr. Gardulo to speak to you
1	Q. Yes.A. No, I never did.MR. ACETO: I think what he's saying is he		Does that refresh your recollection at all as to whether Pam Jones told Mr. Gardulo to speak to you regarding the borrowing base certificates?
1 2	Q. Yes. A. No, I never did.	2	Does that refresh your recollection at all as to whether Pam Jones told Mr. Gardulo to speak to you
1 2 3	Q. Yes.A. No, I never did.MR. ACETO: I think what he's saying is he	2	Does that refresh your recollection at all as to whether Pam Jones told Mr. Gardulo to speak to you regarding the borrowing base certificates?
1 2 3 4	Q. Yes. A. No, I never did. MR. ACETO: I think what he's saying is he didn't necessarily say he wanted National Union's policy	2 3 4	Does that refresh your recollection at all as to whether Pam Jones told Mr. Gardulo to speak to you regarding the borrowing base certificates? A. No, it doesn't. I think that, the only thing I can tell you is it was probably at a time when Gardulo was turning up the heat on her and she saying, "I'm not
1 2 3 4 5	Q. Yes. A. No, I never did. MR. ACETO: I think what he's saying is he didn't necessarily say he wanted National Union's policy but he did meet with National regarding a D & O policy.	2 3 4 5	Does that refresh your recollection at all as to whether Pam Jones told Mr. Gardulo to speak to you regarding the borrowing base certificates? A. No, it doesn't. I think that, the only thing I can tell you is it was probably at a time when Gardulo
1 2 3 4 5 6	Q. Yes. A. No, I never did. MR. ACETO: I think what he's saying is he didn't necessarily say he wanted National Union's policy but he did meet with National regarding a D & O policy. THE WITNESS: No	2 3 4 5 6	Does that refresh your recollection at all as to whether Pam Jones told Mr. Gardulo to speak to you regarding the borrowing base certificates? A. No, it doesn't. I think that, the only thing I can tell you is it was probably at a time when Gardulo was turning up the heat on her and she saying, "I'm not
1 2 3 4 5 6 7	Q. Yes. A. No, I never did. MR. ACETO: I think what he's saying is he didn't necessarily say he wanted National Union's policy but he did meet with National regarding a D & O policy. THE WITNESS: No BY MR. TUMILTY:	2 3 4 5 6 7	Does that refresh your recollection at all as to whether Pam Jones told Mr. Gardulo to speak to you regarding the borrowing base certificates? A. No, it doesn't. I think that, the only thing I can tell you is it was probably at a time when Gardulo was turning up the heat on her and she saying, "I'm not going to certify. You need to go to someone else." I would guess that's what she was doing. Q. The bankruptcy that we have been referring to,
1 2 3 4 5 6 7 8	Q. Yes. A. No, I never did. MR. ACETO: I think what he's saying is he didn't necessarily say he wanted National Union's policy but he did meet with National regarding a D & O policy. THE WITNESS: No BY MR. TUMILTY: Q. Did you have any communications with IIG say	2 3 4 5 6 7 8	Does that refresh your recollection at all as to whether Pam Jones told Mr. Gardulo to speak to you regarding the borrowing base certificates? A. No, it doesn't. I think that, the only thing I can tell you is it was probably at a time when Gardulo was turning up the heat on her and she saying, "I'm not going to certify. You need to go to someone else." I would guess that's what she was doing.
1 2 3 4 5 6 7 8	Q. Yes. A. No, I never did. MR. ACETO: I think what he's saying is he didn't necessarily say he wanted National Union's policy but he did meet with National regarding a D & O policy. THE WITNESS: No BY MR. TUMILTY: Q. Did you have any communications with IIG say from 2000 on concerning the purchase of D & O coverage	2 3 4 5 6 7 8	Does that refresh your recollection at all as to whether Pam Jones told Mr. Gardulo to speak to you regarding the borrowing base certificates? A. No, it doesn't. I think that, the only thing I can tell you is it was probably at a time when Gardulo was turning up the heat on her and she saying, "I'm not going to certify. You need to go to someone else." I would guess that's what she was doing. Q. The bankruptcy that we have been referring to,
1 2 3 4 5 6 7 8 9	Q. Yes. A. No, I never did. MR. ACETO: I think what he's saying is he didn't necessarily say he wanted National Union's policy but he did meet with National regarding a D & O policy. THE WITNESS: No BY MR. TUMILTY: Q. Did you have any communications with IIG say from 2000 on concerning the purchase of D & O coverage for MHCS?	2 3 4 5 6 7 8 9	Does that refresh your recollection at all as to whether Pam Jones told Mr. Gardulo to speak to you regarding the borrowing base certificates? A. No, it doesn't. I think that, the only thing I can tell you is it was probably at a time when Gardulo was turning up the heat on her and she saying, "I'm not going to certify. You need to go to someone else." I would guess that's what she was doing. Q. The bankruptcy that we have been referring to, that was the MHCS bankruptcy, correct?
1 2 3 4 5 6 7 8 9 10	Q. Yes. A. No, I never did. MR. ACETO: I think what he's saying is he didn't necessarily say he wanted National Union's policy but he did meet with National regarding a D & O policy. THE WITNESS: No BY MR. TUMILTY: Q. Did you have any communications with IIG say from 2000 on concerning the purchase of D & O coverage for MHCS? A. I just don't remember it. I mean, I gather	2 3 4 5 6 7 8 9 10	Does that refresh your recollection at all as to whether Pam Jones told Mr. Gardulo to speak to you regarding the borrowing base certificates? A. No, it doesn't. I think that, the only thing I can tell you is it was probably at a time when Gardulo was turning up the heat on her and she saying, "I'm not going to certify. You need to go to someone else." I would guess that's what she was doing. Q. The bankruptcy that we have been referring to, that was the MHCS bankruptcy, correct? A. Correct.
1 2 3 4 5 6 7 8 9 10 11 12	Q. Yes. A. No, I never did. MR. ACETO: I think what he's saying is he didn't necessarily say he wanted National Union's policy but he did meet with National regarding a D & O policy. THE WITNESS: No BY MR. TUMILTY: Q. Did you have any communications with IIG say from 2000 on concerning the purchase of D & O coverage for MHCS? A. I just don't remember it. I mean, I gather from Greg that I might have, but I don't remember it.	2 3 4 5 6 7 8 9 10 11	Does that refresh your recollection at all as to whether Pam Jones told Mr. Gardulo to speak to you regarding the borrowing base certificates? A. No, it doesn't. I think that, the only thing I can tell you is it was probably at a time when Gardulo was turning up the heat on her and she saying, "I'm not going to certify. You need to go to someone else." I would guess that's what she was doing. Q. The bankruptcy that we have been referring to, that was the MHCS bankruptcy, correct? A. Correct. Q. At some point you filed personal bankruptcy, correct? A. Correct.
1 2 3 4 5 6 7 8 9 10 11 12 13	Q. Yes. A. No, I never did. MR. ACETO: I think what he's saying is he didn't necessarily say he wanted National Union's policy but he did meet with National regarding a D & O policy. THE WITNESS: No BY MR. TUMILTY: Q. Did you have any communications with IIG say from 2000 on concerning the purchase of D & O coverage for MHCS? A. I just don't remember it. I mean, I gather from Greg that I might have, but I don't remember it. MR. ACETO: Can we go off the record for a	2 3 4 5 6 7 8 9 10 11 12 13	Does that refresh your recollection at all as to whether Pam Jones told Mr. Gardulo to speak to you regarding the borrowing base certificates? A. No, it doesn't. I think that, the only thing I can tell you is it was probably at a time when Gardulo was turning up the heat on her and she saying, "I'm not going to certify. You need to go to someone else." I would guess that's what she was doing. Q. The bankruptcy that we have been referring to, that was the MHCS bankruptcy, correct? A. Correct. Q. At some point you filed personal bankruptcy, correct?
1 2 3 4 5 6 7 8 9 10 11 12 13 14	Q. Yes. A. No, I never did. MR. ACETO: I think what he's saying is he didn't necessarily say he wanted National Union's policy but he did meet with National regarding a D & O policy. THE WITNESS: No BY MR. TUMILTY: Q. Did you have any communications with IIG say from 2000 on concerning the purchase of D & O coverage for MHCS? A. I just don't remember it. I mean, I gather from Greg that I might have, but I don't remember it. MR. ACETO: Can we go off the record for a minute?	2 3 4 5 6 7 8 9 10 11 12 13	Does that refresh your recollection at all as to whether Pam Jones told Mr. Gardulo to speak to you regarding the borrowing base certificates? A. No, it doesn't. I think that, the only thing I can tell you is it was probably at a time when Gardulo was turning up the heat on her and she saying, "I'm not going to certify. You need to go to someone else." I would guess that's what she was doing. Q. The bankruptcy that we have been referring to, that was the MHCS bankruptcy, correct? A. Correct. Q. At some point you filed personal bankruptcy, correct? A. Correct.
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	Q. Yes. A. No, I never did. MR. ACETO: I think what he's saying is he didn't necessarily say he wanted National Union's policy but he did meet with National regarding a D & O policy. THE WITNESS: No BY MR. TUMILTY: Q. Did you have any communications with IIG say from 2000 on concerning the purchase of D & O coverage for MHCS? A. I just don't remember it. I mean, I gather from Greg that I might have, but I don't remember it. MR. ACETO: Can we go off the record for a minute? (Witness confers with counsel.)	2 3 4 5 6 7 8 9 10 11 12 13 14 15	Does that refresh your recollection at all as to whether Pam Jones told Mr. Gardulo to speak to you regarding the borrowing base certificates? A. No, it doesn't. I think that, the only thing I can tell you is it was probably at a time when Gardulo was turning up the heat on her and she saying, "I'm not going to certify. You need to go to someone else." I would guess that's what she was doing. Q. The bankruptcy that we have been referring to, that was the MHCS bankruptcy, correct? A. Correct. Q. At some point you filed personal bankruptcy, correct? A. Correct. Q. And do you recall when you did that?
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Q. Yes. A. No, I never did. MR. ACETO: I think what he's saying is he didn't necessarily say he wanted National Union's policy but he did meet with National regarding a D & O policy. THE WITNESS: No BY MR. TUMILTY: Q. Did you have any communications with IIG say from 2000 on concerning the purchase of D & O coverage for MHCS? A. I just don't remember it. I mean, I gather from Greg that I might have, but I don't remember it. MR. ACETO: Can we go off the record for a minute? (Witness confers with counsel.) BY MR. TUMILTY:	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Does that refresh your recollection at all as to whether Pam Jones told Mr. Gardulo to speak to you regarding the borrowing base certificates? A. No, it doesn't. I think that, the only thing I can tell you is it was probably at a time when Gardulo was turning up the heat on her and she saying, "I'm not going to certify. You need to go to someone else." I would guess that's what she was doing. Q. The bankruptcy that we have been referring to, that was the MHCS bankruptcy, correct? A. Correct. Q. At some point you filed personal bankruptcy, correct? A. Correct. Q. And do you recall when you did that? A. I think it was December of '02.
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q. Yes. A. No, I never did. MR. ACETO: I think what he's saying is he didn't necessarily say he wanted National Union's policy but he did meet with National regarding a D & O policy. THE WITNESS: No BY MR. TUMILTY: Q. Did you have any communications with IIG say from 2000 on concerning the purchase of D & O coverage for MHCS? A. I just don't remember it. I mean, I gather from Greg that I might have, but I don't remember it. MR. ACETO: Can we go off the record for a minute? (Witness confers with counsel.) BY MR. TUMILTY: Q. So	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Does that refresh your recollection at all as to whether Pam Jones told Mr. Gardulo to speak to you regarding the borrowing base certificates? A. No, it doesn't. I think that, the only thing I can tell you is it was probably at a time when Gardulo was turning up the heat on her and she saying, "I'm not going to certify. You need to go to someone else." I would guess that's what she was doing. Q. The bankruptcy that we have been referring to, that was the MHCS bankruptcy, correct? A. Correct. Q. At some point you filed personal bankruptcy, correct? A. Correct. Q. And do you recall when you did that? A. I think it was December of '02. Q. Can you tell me why you initiated bankruptcy
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. Yes. A. No, I never did. MR. ACETO: I think what he's saying is he didn't necessarily say he wanted National Union's policy but he did meet with National regarding a D & O policy. THE WITNESS: No BY MR. TUMILTY: Q. Did you have any communications with IIG say from 2000 on concerning the purchase of D & O coverage for MHCS? A. I just don't remember it. I mean, I gather from Greg that I might have, but I don't remember it. MR. ACETO: Can we go off the record for a minute? (Witness confers with counsel.) BY MR. TUMILTY: Q. So A. I still don't remember.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Does that refresh your recollection at all as to whether Pam Jones told Mr. Gardulo to speak to you regarding the borrowing base certificates? A. No, it doesn't. I think that, the only thing I can tell you is it was probably at a time when Gardulo was turning up the heat on her and she saying, "I'm not going to certify. You need to go to someone else." I would guess that's what she was doing. Q. The bankruptcy that we have been referring to, that was the MHCS bankruptcy, correct? A. Correct. Q. At some point you filed personal bankruptcy, correct? A. Correct. Q. And do you recall when you did that? A. I think it was December of '02. Q. Can you tell me why you initiated bankruptcy proceedings, what precipitated that?
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. Yes. A. No, I never did. MR. ACETO: I think what he's saying is he didn't necessarily say he wanted National Union's policy but he did meet with National regarding a D & O policy. THE WITNESS: No BY MR. TUMILTY: Q. Did you have any communications with IIG say from 2000 on concerning the purchase of D & O coverage for MHCS? A. I just don't remember it. I mean, I gather from Greg that I might have, but I don't remember it. MR. ACETO: Can we go off the record for a minute? (Witness confers with counsel.) BY MR. TUMILTY: Q. So A. I still don't remember. Q. Who at MHCS would deal with IIG in order to	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Does that refresh your recollection at all as to whether Pam Jones told Mr. Gardulo to speak to you regarding the borrowing base certificates? A. No, it doesn't. I think that, the only thing I can tell you is it was probably at a time when Gardulo was turning up the heat on her and she saying, "I'm not going to certify. You need to go to someone else." I would guess that's what she was doing. Q. The bankruptcy that we have been referring to, that was the MHCS bankruptcy, correct? A. Correct. Q. At some point you filed personal bankruptcy, correct? A. Correct. Q. And do you recall when you did that? A. I think it was December of '02. Q. Can you tell me why you initiated bankruptcy proceedings, what precipitated that? A. Well, I just had this whole situation with Heller was overwhelming. I thought I had coverage
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. Yes. A. No, I never did. MR. ACETO: I think what he's saying is he didn't necessarily say he wanted National Union's policy but he did meet with National regarding a D & O policy. THE WITNESS: No BY MR. TUMILTY: Q. Did you have any communications with IIG say from 2000 on concerning the purchase of D & O coverage for MHCS? A. I just don't remember it. I mean, I gather from Greg that I might have, but I don't remember it. MR. ACETO: Can we go off the record for a minute? (Witness confers with counsel.) BY MR. TUMILTY: Q. So A. I still don't remember. Q. Who at MHCS would deal with IIG in order to obtain directors and officers liability insurance?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Does that refresh your recollection at all as to whether Pam Jones told Mr. Gardulo to speak to you regarding the borrowing base certificates? A. No, it doesn't. I think that, the only thing I can tell you is it was probably at a time when Gardulo was turning up the heat on her and she saying, "I'm not going to certify. You need to go to someone else." I would guess that's what she was doing. Q. The bankruptcy that we have been referring to, that was the MHCS bankruptcy, correct? A. Correct. Q. At some point you filed personal bankruptcy, correct? A. Correct. Q. And do you recall when you did that? A. I think it was December of '02. Q. Can you tell me why you initiated bankruptcy proceedings, what precipitated that? A. Well, I just had this whole situation with Heller was overwhelming. I thought I had coverage
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q. Yes. A. No, I never did. MR. ACETO: I think what he's saying is he didn't necessarily say he wanted National Union's policy but he did meet with National regarding a D & O policy. THE WITNESS: No BY MR. TUMILTY: Q. Did you have any communications with IIG say from 2000 on concerning the purchase of D & O coverage for MHCS? A. I just don't remember it. I mean, I gather from Greg that I might have, but I don't remember it. MR. ACETO: Can we go off the record for a minute? (Witness confers with counsel.) BY MR. TUMILTY: Q. So A. I still don't remember. Q. Who at MHCS would deal with IIG in order to obtain directors and officers liability insurance? A. It would have been Indy Edward and Pam Jones.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Does that refresh your recollection at all as to whether Pam Jones told Mr. Gardulo to speak to you regarding the borrowing base certificates? A. No, it doesn't. I think that, the only thing I can tell you is it was probably at a time when Gardulo was turning up the heat on her and she saying, "I'm not going to certify. You need to go to someone else." I would guess that's what she was doing. Q. The bankruptcy that we have been referring to, that was the MHCS bankruptcy, correct? A. Correct. Q. At some point you filed personal bankruptcy, correct? A. Correct. Q. And do you recall when you did that? A. I think it was December of '02. Q. Can you tell me why you initiated bankruptcy proceedings, what precipitated that? A. Well, I just had this whole situation with Heller was overwhelming. I thought I had coverage through my D & O policy at Managed Healthcare. National

		Case 1:05-cv-11128-NG Dog	cummemt 710-4	i Filed	111/10/2006	Page 12 of 28
		41				43
1	somethi	ng like that.	- Comment	Q.	One of the things t	hat was to be listed on
2		They were claiming I had guaranteed the	2	those sch	edules and stateme	ent of financial affairs was a
3	bankrup	tcy, the DIP loan. I just, I was left witho	ut 3	listing of	your assets?	
	any choi	ce. I mean, it was just overwhelming.	4	A.	Correct.	
-	Q.	When you say you thought you had coverage	and 5	Q.	Another thing was	a listing of any claims that
6	National	had turned it down, you were aware of that	6	you had o	or may have?	
7	prior to fi	ling your bankruptcy, correct?	7	Α.	Yes.	
8	A.	I think so.	8		MR. TUMILTY:	We'll mark this as the next
9	Q.	And I believe one of the other things you	9	exhibit.		
10	mentione	d was that Heller was claiming that you had	10		(Document ma	arked for identification as
11	guarante	ed the DIP loan?	11	Exhibit No	0.4.)	
12	Α.	Correct.	12	BY MR. T	UMILTY:	
13	Q.	I think another thing you said is something	13	Q.	Mr. Ingoldsby, I've	placed in front of you
14	that deve	cloped or something precipitating you filing the	e 14	what the	court reporter mari	ked as Exhibit 4. It's a
15	bankrupt	cy was you had a lot of legal bills?	15	documen	t entitled Summary	of Schedules filed January 2,
16	Α.	Relating to this matter.	16	2003 with	n the United States	Bankruptcy Court For the
17	Q.	By "this matter," what do you mean?	17	Middle Di	strict of Florida. Th	at was a document that
18	A.	The Heller lawsuit.	18	was filed	in your bankruptcy	, correct?
19	Q.	Would you agree with me that one of the	19	A.	Correct.	
20	reasons (generally for filing bankruptcy is in order for	20	Q.	If you turn to the f	ourth page from the end,
21	the debto	or to get a fresh start?	21	it should	say verification of c	reditor matrix?
22	A.	I suppose that's true. In some cases.	22	Α.	Yes.	
23	Q.	Do you also understand that as part of a	23	Q.	Is that your signat	ure on that page?
24	bankrupt	cy it's not unusual for there to be payments to	24	Α.	Yes.	
-		42	2			44
1	creditors	?	1	Q.	The page before th	at says Chapter 7 Individual
2	A.	I understand that.	2	Debtor's	Statement of Intent	tion?
3	Q.	Was a trustee appointed in your personal	3	A.	Yes.	
4	bankrupt	cy?	4	Q.	Is that your signat	ure on that page?
5	A.	Yes.	5	A.	Yes.	
6	Q.	Do you remember the name of that trustee?	6	Q.	If you turn to the p	page before that, is that
7	A.	I think his name is Harpley.	7	your sign	ature at the bottom	n of that page?
8	Q.	Do you recall what his first name is or where	8	A.	Yes, it is.	
9	he's loca	ted?	9	Q.	If you go to maybe	e seven or eight pages before
10	A.	Tampa.	10	that, you	get to a page that	says Declaration Concerning
11	Q.	Tampa, Florida?	11	Debtor's	Schedules?	
12	A.	Yes.	12	Α.	Yes.	
13	Q.	Do you happen to know whether he's an	13	Q.	Is that your signat	ure on that page?
14	attorney	?	14	A.	Yes.	
15	A.	I don't know.	15	Q.	Do you recall how	it came to be how the assets
16	Q.	Were you represented by an attorney in your	16	that were	listed in your sche	dules, which we've marked
17	personal	bankruptcy?	17	as Exhibit	t 4, how those asse	ts came to be selected as
	Α.	Yes.	18	the asset	s that that would be	e listed?
18		Who was that?	19	Α.	It was laborious.	We made up a long list and
	Q.		20	met with	the attorney and	d reviewed everything. And some
18	Q. A.	Michael Brundage.				
18		Michael Brundage. You're aware that as part of your bankruptcy	21	things w	e had forgotten,	and I know he reminded us of
18	A. Q.		21 22	_		and I know he reminded us of to get it organized.
18 19	A. Q.	You're aware that as part of your bankruptcy e required to file schedules and statements of		them. A	nd it took a week	

	Case 1:05-cv-11128-NG Document	770-4 6	3
	45		47
1	A. Carrect.	- April 1	Q. Is that the reason you did not list them in
2	Q. That was a poor question on my part. I want	2	your schedules, because of advice of counsel?
3	to make sure the record is clear. On the schedules that	3	MR. ACETO: You can answer that question.
ı	you filed in your bankruptcy, you didn't list any	4	BY MR. TUMILTY:
_	interest in any insurance policies issued by National	5	A. Yes.
6	Union, correct?	6	Q. Can you tell me what you and your attorney
7	A. Correct.	7	discussed relating to your bankruptcy schedules?
8	MR. TUMILTY: We'll mark this as the next	8	MR. ACETO: If we can agree that the
9	exhibit.	9	waiver, which it would be, is going to be a waiver only
10	(Document marked for identification as	10	of that particular discussion and not anything else?
11	Exhibit No. 5.)	11	MR. TUMILTY: I'll agree it's a waiver of
12	BY MR. TUMILTY:	12	discussions or communications regarding that issue.
13	Q. Why didn't you list on your schedules that	13	MR. ACETO: Just this specific issue as to
14	were filed in your personal bankruptcy an interest in	14	whether to list the National Union potential claims
15	any policy listed by National Union?	15	against National Union to cover or indemnify any
16	A. Well, we discussed it, and my attorney didn't	16	resulting damages?
17	see it as an asset. But I'm looking at this letter and	17	MR. TUMILTY: Yes, I'll agree to that.
18	I don't even know if the suit was filed this looks	18	BY MR. TUMILTY:
19	like it was filed before can we go off the record for	19	Q. With that agreement, can you tell me what you
20	a second?	20	and your bankruptcy attorney discussed regarding the
21	Q. You can go off the record to talk to your	21	issue of whether to list any potential claim of coverage
22	attorney if you want to. I'd like to leave that letter	22	with respect to the National Union policy?
23	aside for a second	23	A. I don't remember it being a lengthy
24	A. I'll answer the question. It came up and it	24	discussion. It's just he didn't see it as an asset. It
1	46		48
1	was discussed, also discussed with the trustee. I never	1	wasn't any, it wasn't any big deal discussion. But he
2	saw it as an asset. They didn't see it as an asset.	2	did say that he would talk to the trustee about it.
3	And as I sit here now, I'm trying to remember when	3	Q. Did you see it as an asset of your bankruptcy?
4	this was the countersuit against Heller.	4	A. No, absolutely not.
5	Q. We'll get to that.	5	Q. How did the issue even come up that you and
6	A. I'm confused.	6	your attorney were discussing the issue of whether to
7	Q. We've already established that you didn't list	7	list an interest in the policy?
8	in your bankruptcy schedules any interest in any	8	A. Well, because there was a question about
9	policies issued by National Union, correct?	9	litigation. To be honest, I don't remember how that was
10	A. Correct.	10	discussed.
11	Q. And you said that it was discussed with your	11	Q. Did you and your bankruptcy attorney have any
12	bankruptcy attorney whether to list an interest in the	12	written communications about the issue of whether to
13	policy, correct?	13	list an interest in the National Union policy on your
14	A. Correct.	14	bankruptcy schedules?
15	Q. And can you tell me what was said in those	15	A. No.
16	discussions?	16	Q. Did you personally ever have any discussions
17	MR. ACETO: I'm going to instruct him not	17	with the bankruptcy trustee regarding the issue of where
18	to answer that question.	18	to list on your schedules an interest in the National
19	MR. TUMILTY: I believe that I'm entitled	19	Union policy?
1	to an answer. I will put on the record I'm entitled to	20	A. No, but I was present when my attorney talked
-	an answer since you appeared to be relying on advice of	21	with him.
22	counsel defense as to why you did not list them in your	22	Q. How many time did your attorney talk to the
23	schedules.	23	bankruptcy trustee about that issue?
24	BY MR. TUMILTY:	24	A. I don't know how many times. I was there once

Page 45 to 48 of 104

10/22/2006 08:07:13 PM

12 of 34 sheets

Document 70-6 Filled 11/10/2006 Case 1:05-cv-11128-NG Page 14 of 28

8

17

49

when I observed it. 1

2

6

7

8

9

10

11

15

16

17

18

19

20

21

22

23

24

6

7

8

9

10

11

19

٠.

22

23

24

Can you tell me what was discussed on the issue of whether to list an interest in the National Union policy on your schedules with the trustee?

I don't remember the details. All I know is that it was discussed, and there wasn't any suggestion that it be, that the schedules be amended.

Do you have any memory of the trustee saying that he did not think that any interest that you may or may not have had in the National Union policy was an interest that should be listed on your schedule?

MR. ACETO: Please read it back. 12 13 MR. TUMILTY: I'll rephrase it.

14 BY MR. TUMILTY:

> When you said that there was never any indication that anyone felt the schedules needed to be amended, what I'm trying to find out is do you have any memory of the trustee actually saying I don't think that's an interest that needs to get put on these schedules?

I remember the outcome of the conversation. A. That's all I remember is they discussed it. I don't remember what his words were, but it was clearly discussed and the conclusion was to do nothing.

1 Do you happen to know whether your attorney

had any written communications with the bankruptcy 2 3 trustee regarding the issue of whether to list an

interest in the National Union policy on your bankruptcy 4

5 schedules?

> Α. I don't know.

I've handed you what the court reporter marked as Exhibit 5. I want to ask a more general question before that. Is it fair to say that you're contending in this action that National Union wrongfully denied coverage to you?

12

13 And can you tell me what you believe they Q. wrongfully denied coverage with respect to, what is it 14 15 they should have provided coverage for? MR. ACETO: Which count in the Complaint? 16 17 MR. TUMILTY: I'll get to that. 18 BY MR, TUMILTY:

A. Well, I think that -- I believe a directors and officers insurance policy should have covered directors and officers who were falsely claimed by Heller in this case and very egregious behavior by Heller that we should have had our defense coverage.

That's really all we cared about at the time,

just getting our defense. Without the defense coverage, 1

2 you know, my whole world fell apart.

3 I'm not trying to drag you through painful memories. I need a frame of reference. Fair to say

that you believed you were entitled to coverage from 5

National Union with respect to the lawsuit that Heller 6

7 brought against you?

> Α. Correct.

9 Do you recall what the claims were that Heller 10 brought against you?

Not all. I know that they claimed there was 11 negligence and breach of guaranty. And I have the 12 documents to show there was no guaranty. And the 13 subject of negligence, I know how Indy and Pam worked. 14 They are two very honest people, super honest. I know 15 this was all a game that Heller was playing, and 16

And there wasn't any negligence. There 18 absolutely wasn't any, not even an ounce of negligence. 19 These two ladies were squeaky clean, and we should have 20 had some help in defending ourselves. And we didn't get 21 22 that. It ruined three people.

everything unfolded the way Heller wanted it to unfold.

23 I understand that you're not a lawyer, but do you believe that National Union was required to provide 24

coverage for all of the claims that Heller brought 1

2 against you? I don't know. I don't have the memory to know

3

7

11

13

14

15

16

17

18

19

20

21

22

23

24

what the counts were at this point. I guess from my 4 5 point of view, I think in terms of when you spend \$20,000 for a directors and officers premium for a year 6 and you basically don't get anything for it, it just

8 seems unfair.

Earlier you mentioned that you recall there 9 was a negligence claim and breach of guaranty claim. Do 10 you believe that National Union should have provided coverage for the negligence claim? 12

Absolutely.

Do you believe that National Union should have provided coverage for the breach of guaranty claim?

I think National Union should have at least inquired -- for a company that paid \$20,000 to say no and not even listen, all they would have to do is look at the documentation that I have that shows there's no quaranty.

And they should have stepped in to help us defend ourselves. They never even tried to learn. They just basically said no.

You addressed the negligence claim. I'm

Page 49 to 52 of 104

52

1 Eying to get to the issue of whether you think tilloy 2 thould have upped in it your words, and provided 3 coverage and data sampthing with respect to the treach of guaranty data. A. First of all, I den't know whather that would be coverage on from sampthing with respect to the treach of guaranty data. A. First of all, I den't know whather that would be coverage on thot. I don't know, what I denow is that, I some cefers and that. I think, I can'd be wrone, I some cefers and that. I think, I can'd be wrone, I would think the breach of guaranty would find in the some category, but I just don't know, I can'd can'd long a guaranty would find in the some category, but I just don't know, I can'd can'd long a guaranty would find in the some category, but I just don't know, I can'd do wrone, I can'd can'd be come you, I list a cut offeed daiguist I, 2002 from Crocury you, I list a cut offeed daiguist I, 2002 from Crocury you, I list a cut offeed daiguist I, 2002 from Crocury list and individual and the list of the come of the level of the seath that I see that guaranty would have leave that Haller field against you? A. Yes. A. Yes. A. No, I don't. A. Yes. A. No, I don't. C. Quaranty A. No, I don't would have any reson to doubt that? A. No, I would you have any reson to doubt that? A. No would well as a served 3 at my home. A. O by you believe in you of the level of the long that it was served 3 at my home. A. Do you believe in you of the level of the long that it was served 3 at my home. A. Do you believe in you of the level of th		Case 1::05-cv-111128-NG Document	77 10 1	
2 hould have subped in, it your words, and provided 3 manage and done something with respect to the broad of guismonty claim. A. First of cit. I don't know whether that would be covered or not. I don't know. All I know is thei, I fix know the registence subject they should have broad a some defense an that. I think, I could be writing, I would got that the breach of guismonty have I jims don't know 4. O. If you could look in Skinth fort of 9. John No better cited August 1, 2002 from Gegary 13. Arean to Netword thinks. Have you seen that document 14. A. Yes. 15. A. I don't remember it, but I'm sure I must have. 16. Q. Do you recall when Helter filed the lawsuit 17. A. No. I don't. 18. A. Yes. 19. Q. Do you note when the life of the lawsuit 19. A. No. I don't. 20. If I told you that suit was filed on August 1, 21. Q. Do you know if you discussed Exhibit 5 with 22. Gregory Ancho before he sent that latter to National 23. Union? 24. A. No. really. 25. Q. Do you recall when you personally first accame 26. But you have no memory of when that would have 27. A. Not really. 28. A. Or really. 29. Do you come would have been prior to the 29. Dear? 20. Dear you shall you shall you get say help first a Cambe 29. Dear no would you have any reason to doubt that? 20. Do you would you shall suit was filed and first come 20. Do you would you have any reason to doubt that? 20. Do you would you have any reason to doubt that? 21. A. Not really. 22. Do you could when the latter to National 23. Union? 24. A. Tresure, but I just don't recall. 25. Q. Do you would you have any reason to doubt that would have 26. But you have no memory of when that would have 27. A. Not really. 28. A. Or really. 29. Do you would you have any reason to doubt that though. I don't know what you're 29. Dear no would you get say when the would have 29. Do you would you have any reason to mind that you get you're you're you're you're you were a were that heller was seeding to have you 29. Dear no would you're you're you're you're you're you're you're you're		7	// U=4	
2 should twe stapped in, in your woord, and provided 3 coverage and dona contribing with respect to be breach 5 coverage and dona contribing with respect to be breach 6 pages and dona contribing with respect to be breach 7 pages and pages and dona contribing with respect to be breach 8 some defence on that. I think, I could be wrong p. 1 8 would other the breach of guaranty would staff in the 9 wond other the breach of guaranty would staff in the 10 would other the breach of guaranty would staff in the 10 you. But a bellet native Aqual 2, 2002 from Cropry 11 cache to Rational Phian. Have you seen that document 12 before? 13 A Yes. 14 G D by at believe this document is related to the 15 invest that lettler field against you? 16 A Yes. 17 Q D by an exall when Heller field the leavant 18 Q D by an exall when Heller field the leavant 19 Q D by an exall when Heller field the leavant 20 against you? 21 A No. I don't. 22 Q If I dod you have any reusen to doubt that? 23 DD2, would you have any reusen to doubt that? 24 A No. 25 D D you weell would have been mind to the 26 Gregory Acoto before he sent that letter to National 27 A Not reality. 28 Q D by our weell when Heller the degrading type? 29 A No the leavant think heller had fleed against you? 30 A Not reality. 31 A Do you weell when heller the fleed against you? 32 A No the reality. 33 A Not reality. I would guess that I was served 34 A Time sure, but I just don't realit. 36 Q D by our weell when heller the Malanal 38 Union? 39 Q A not reality in would guess that I was served 40 A Time sure, but I just don't realit. 41 A Time sure, but I just don't realit. 42 A Do you weell when hele field the leavant 43 A No. 44 A Time sure, but I just don't realit. 45 A Do you weell when heller fleed against you? 46 A Do you weell when we pure sonaled to the fleed against you? 47 A Not reality. I would guess that I was served 48 A Do you weell when heller fleed against you? 49 A Not reality. I would guess that I was served 40 A Do you weell when we we are served a fleed against y	1	frying to get to the issue of whether you think they	1	was done on the second, it would seem that you would
3 Coverage and down correcting with respect to the breach of guaranty claim. A. First of ell, I don't know whether that would be coverage and form on I don't know. All I know is that, I know the need goes of the laws at, whenever the know the need glog once delighed threy should have provided a some defense on that. I think, I could be wrong, I would think the breach of guaranty would did in the same cabory. Evr I) just fron't know. C. If you could lock at Schiold Sin force of you, It's a steer didd August 2, 2002 from Gregory Aced to Noldcraft. How, I know the that document the before? A. I don't remember it, but I'm sure I must have. C. Do you believe th shocument is related to the lawsuit mat Heller filled against you? A. Yes. C. Do you could what Heller filed the lawsuit eagainst you? A. No, I don't. C. If i not you that suit was filed on August 1; C. Do you know if you discussed Pixhibh's with C. Do you know if you discussed Pixhibh's with C. Do you know if you discussed Pixhibh's with C. Do you know if you discussed Pixhibh's with C. Do you know if you discussed Pixhibh's with C. Do you know if you discussed Pixhibh's with C. Do you know if you discussed Pixhibh's with C. Do you know if you discussed Pixhibh's with C. Do you know if you discussed Pixhibh's with C. Do you know if you discussed Pixhibh's with C. Do you know if you discussed Pixhibh's with C. Do you know if you discussed Pixhibh's with C. Do you know if you discussed Pixhibh's with C. Do you know if you discussed Pixhibh's with C. Do you have no memory of when that would have C. Do you know if you discussed Pixhibh's with C. Do you have no memory of when that would have C. Do you know if you discussed Pixhibh's with C. Do you check would have been prior to the C. Do you know if you discussed Pixhibh's with C. Do you believed to you whene C. Do you where seven the first the would have C. Do you where if you discussed Pixhibh's with C. Do you while reach the conditional C. Do you believed the conditional C. Do you believed the conditional			2	have to have some foreknowledge, but I don't remember
4			3	it.
5 he covared or not. I don't know whether that twould have become a ware of the inwault, whenever the overall or not. I don't know, All I know the visit that, I was the you have sell that the character of the inwault, whenever the covared or not. I don't know, All I know the provided 7 have so, were you aware at this, time that you are been some defense on that, I think, I could be wrong, I would think the breach of guarantly would fall in the same category, but I just con't know. 10 some defense on that, I think, I could be wrong, I would think the breach of guarantly would fall in the same category, but I just con't know. 11 Q. If you call love of Exhibit is in front of you. It's a facer cated August 2, 2002 from Graphy 12 Anato in National in nor. Have you seen that occurrent 14 become? 12 Anatom the life against you? 13 Anatom title filled against you? 14 A. I don't know. I just don't remember where. 15 A. I don't know. I just don't remember where. 16 Q. Do you know if you discussed brilled in all you have any reason to doubt that? 20 against you? 21 A. No. I don't. 22 Q. After remaining the Complaint, were you aware 2 demages were? 23 Heller was seeking monetary demages against you? 24 A. Yes. 5 Q. Do you know if you discussed Exhibit is with 1 Q. And do you recall how much those alleged damages were? 22 Heller was seeking monetary demages against you? 23 Heller was seeking monetary demages against you? 24 A. I'm sure, but I just don't recall. 25 Q. Do you know if you discussed Exhibit is no holdonal with the Heller had fine gegingt you? 26 A. Yes. 27 A. No really. I would guess that I was served at millions of dollars and treble damages. 28 A. Yes. 29 C. And a you recall how much those alleged damages were? 29 C. And a feer you read the Complaint, were you aware and reasonally have no memory of when the twenty have any reason to doubt that hough. I don't how what you're provided the provided that though is not will have any resonally had like good to be a provided that the provided t			A,	Q. Leaving aside you don't remember specifically
be covered or not. I don't know. All I know is that, I know the nepfigeror subject they should have provided some defense on that. I think, I sould be wrong. I would think the breach of gueranty would fail in the some defense on that. I think, I know be wrong. I can cobegory, but I just don't know. I garnate as a defendant? A Yes. I ramember it was a misropresentation and th keach of gueranty. A I fon't remember it, but I'm sure I must have. O Do you before the sent that letter the lansuit. Bayant two Heller against you? A No, I don't. Complaint, I do you read it? A No, I don't. Complaint, I do you read it? A No, I don't. Complaint it is do you have any reason to doubt that? A No. C Do you know if you discussed Exhibit 3 with C Geopory Aceto before he sent that letter to National Union? A Not really. A Not really. C Do you believe the would have been arise to the lime that Attomey Aceto sent british 3 to National Union? A Not really. C Do you believe the would have been arise to the lime that Attomey Aceto sent british 3 to National Union? A Not really. C Do you believe the would have been arise to the lime that Attomey Aceto sent british 5 to National Union? A Not really. C Do you believe the would have been arise to the lime that Attomey Aceto sent british 5 to National Union? A Not really. C Do you believe the would have been arise to the lime that Attomey Aceto sent british 5 to National Union? C Do you believe the would have been arise to the lime that Attomey Aceto sent british 5 to National Union? C Do you believe the would have been arise to the lime that Attomey Aceto sent british 5 to National Union? C Do you believe the would have been arise to the lime that Attomey Aceto sent british 5 to National Union? C Do you believe the would have been arise to the lime that Attomey Aceto sent british 5 to National Union? C Do you believe the would have been arise to the lime that Attomey Aceto sent british 5 to National C Do you believe the would have been arise to the lime that Attomey Aceto sent british 5			5	when you first became aware of the lawsuit, whenever
7 Know the negligence subject they should have provided 8 some defenses on that. I think, I could be wrough 1 would think the breach of guaranty would fait in the 10 warms detergory, but I just don't know. 10 you like a letter dated August 2, 2002 more foreign. 2 you like a letter dated August 2, 2002 more foreign. 3 A. I comment be rich was a misropresentation and the before? 15 A. I don't remember it, but the sure I must have. 16 A. Do you believe this occument is related to the lowsuit that Heller filled against you? 17 A. Yes. 18 A. Yes. 18 A. Yes. 18 A. Yes. 18 A. No, I don't. 20 A. No. 20 A. Yes. 20 A. Yes. 20 A. No and you call was any reason to doubt that? 20 A. No really. I would guess that I was served a time, you must have been prior to the been? 20 A. Not really. I would puss that I was served a time, you must have been aware of the lawsuit prior to the day that Attorney Aceto sent Estric. 5 of Natural policy. 20 A. I find that though, I don't know what you must have been aware of the lawsuit prior to the day that Attorney Aceto sent Estric. 5 of Natural policy. 20 A. I find that though, I don't know what you must have been aware of the lawsuit prior to the day that Attorney Aceto sent Estric. 5 of Natural policy. 20 A. I find that though a day they filed it have any must have been aware of the lawsuit prior to the day that Attorney Aceto sent Estric. 5 of Natural policy. 20 A. Will, no. I mean, I know it shat there was nosthing it and the was any possibility that you must have been aware of the lawsuit prior to the day that Attorney Aceto sent Estric. 5 of Natural policy. 20 A. Attent that there was a possibility that you must have been aware of the lawsuit prior to the day that Attorney Aceto sent Estric. 5 of Natural policy. 20 A. A thint that there was a possibili	6		6	that was, were you aware at that time that you had been
sems defause on that. I think, I could be wrong, I so would think the breach of guaranty would fail it she same adegacy, but I just don't knew. 10 O, If you could look at 5x hibt 5 in fron, of the same and the allogations of the same and the same and the allogations. 12 you, it's a setter date. August 2, 200 fron Gregory that document the before? 13 A. I don't remember it, but I'm sure I must have. 14 before? 15 A. I don't remember it, but I'm sure I must have. 16 Q. Do you believe this document to related to the lawsuit that Heller filled against you? 17 A. Yes. 18 A. Yes. 29 Q. When you life against you? 20 It lod you have any reason to doubt that? 20 A. My be beginned against you? 21 A. No, I don't. 22 Q. If I told you that suit was filled on August 1, 22 Q. After reading that Complaint, were you aware the lawsuit that letter to National 20 Junior? 30 A. Ob you recall when you personally first became aware of the lawsuit that letter to National 31 Q. Do you believe it would have been prior to the time that Actomey Acoto sent Exhibit 5 to National 32 Junior? 33 A. Not specifically, but I know it was in the millions of dollars and treble damages. 44 A. Not really. I would guess that I was served time that Actomey Acoto sent Exhibit 5 to National 45 D. Do you believe it would have been prior to the time that Actomey Acoto sent Exhibit 5 to National 46 Junior? 47 A. Didn't you just say they filled it August 1? 48 A. I think anyone who is sued thinks you might have to pay some ement of the time when you first how what you inside reading that the when you find have any reason to doubt that though. I don't know what you're applied to the first and this 49 C. I understand that. Pim simply asking if at the time when you find have to a system point pay some money to Heller either by way of settlement or judgmant? 40 A. Not really. The told you find the would have been aware of the lawsuit. Is if all to say that you mist have been aware of the lawsuit. Is if all to say that you mist have been a			7	named as a defendant?
9 would think the preach of guaranty would fell in the 10 same category, but 7 just don't know. 11 Q. (Fou could look et Shibit 5 in front of 12 you. It's a letter cated August 2, 2002 from Gragery 13 Aceds to Retional Infinit. Heve you seen that docurrent 14 before? 15 A. I don't remember it, but I'm sure I must have. 16 Q. Do you believe this document is related to the 18 lawstit that Heller filed against you? 18 A. Yes. 19 Q. Do you call when Heller filed the lawsuit. 19 Q. The found if you that suit was rifed on August 1, 20 Q. If I don't was an inference where. 21 A. No, I don't. 22 Q. If I tool you that suit was rifed on August 1, 23 Z002, would you have any reason to doubt that? 24 A. No. 25 Q. Do you recall when you personally first became 26 aware of the lawsuit that Heller had filed against you? 27 A. Not really. I would guess that I was served 28 at my home. 29 Q. But you have no memory of when that would have 10 been? 20 Q. But you just say they filed it August 1? 21 Q. On you believe the world have been prior to the 21 time that Actoriey Aceto sent Exhibit 5 to National 21 Union? 22 Q. The first in the leaves of the lawsuit. The first had filed against you? 23 A. Not really. 24 A. Not really. 25 Q. Do you find then that filed the lawsuit I was served 26 at my home. 27 A. Not really. 28 A. Not really. I would guess that I was served 29 Q. But you have no memory of when that would have 20 been? 20 Q. Do you believe it would have been prior to the 21 time that Actoriey Aceto sent Exhibit 5 to National 21 Union? 22 A. I think enyone who is sued thinks you might have to pay some amount of mency to Heller as a result of their iswault against you? 22 A. I think enyone who is sued thinks you might have to pay some money to Heller as a result of their iswault against you? 26 A. I think enyone who is sued thinks you might have to end up having to pay. That doesn't make it right. 27 A. I think enyone who is sued thinks you might have to end up having to pay. That doesn't make it right. 28 A. I think enyone wh			8	A. Yes.
10 same category, but I just don't know. 11 Q. If you could lock at Exhibit 5 in front of 12 you. It is a fact dated August 7, 202 fron Gregory 13 Acato to National Union. Have you seen that document 14 become? 15 A. I don't remember it, but I'm sure I must have. 16 Q. Do you believe this document is related to the 17 lawsuit that Heller filed against you? 18 A. Ves. 19 Q. Do you recall when Heller filed the lawsuit 19 Q. And you read it. 19 Q. Do you recall when Heller filed the lawsuit 20 against you? 20 Heller against you? 21 A. No, I don't. 22 Q. If I told you that suit was filed on August 1, 23 2002, would you know if you discussed Exhibit 5 with 26 Gregory Aceto before he sent that letter to National 27 Junion? 28 A. Yes. 29 Q. Do you recall when you personally first became 29 A. No really. I would guess that I was served 20 at my home. 20 Q. But you have no memory of when that would have been prior to the 21 deep or you have no memory of when that would have 10 been? 20 A. Not really. 21 A. Not really. 22 Q. And offer you road it? 23 at my home. 34 A. Not really. 35 A. Order a ware of the lawsuit that heller had filed against you? 46 A. Not really. 47 A. Not really. 48 A. Correct. 49 Q. But you lave no memory of when that would have 10 been? 49 Q. And offer you guest say they filed it August 1. 40 Q. And offer you road it? 41 A. Not really. 42 A. Oldn't you just say they filed it August 1. 43 A. Correct. 44 A. I just don't remember. I don't know what you're 19 gesting at. 45 Q. I'm just trying to get at when you first 19 became aware of the lawsuit. I so filed the lawsuit that they are not be dominated the first 19 your 19 you finished reading the Complaint, did you road it? 46 A. Didn't you just say they filed it August 1. 47 A. Didn't you just say they filed it August 1. 48 A. Correct. 49 Q. Yes. 50 Q. Yes. 51 C. Junderstand thet. Pm simply asking if at 19 time when you first 19 they on who is sued thinks you might have to end up having to pay. That doesn't make it right. 51 Q. I'm they have been aware			9	Q. And were you aware of what the allegations
11 Q. If you could look at Exhibit 5 is front of 12 you. It's a letter cated August 2, 2007 from Gregory 13 Action to National Bin on. Have you seen that document 14 before? 15 A. I don't remember it, but I'm sure I must have. 16 Q. Do you believe this document is related to the 17 lawsuit that I tellor filed against you? 18 A. Yes. 19 Q. Do you recall when Holler filed the lawsuit 20 against you? 21 A. No, I don't. 22 Q. If I told you that suit was filed on August 1, 23 2002, would you have any reason to doubt that? 24 A. No. 25 Gregory Aceto before he sent that letter to National 26 Gregory Aceto before he sent that letter to National 27 A. Not really. 28 A. I'm sure, but I just don't recall. 39 Q. Do you recall when you personally first became 30 aware of the lawsuit that Heller had filed against you? 30 A. Not really. 30 Do you seelieve it would have been prior to the 31 time that Attorney Aceto sent Exhibit 5 in National 32 Inhon? 33 Lindon's 34 This sure, but I just don't recall. 40 Deer? 41 A. Not really. 42 A. Not really. 43 time that Attorney Aceto sent Exhibit 5 in National 44 A. Not really. 45 A. Didn't you just say they filed it August 1? 46 A. Didn't you just say they filed it August 1? 47 A. Didn't you just say they filed it August 1? 48 A. Didn't you just say they filed it August 1? 49 C. Yas. 40 Didn't you just say they filed it August 1? 50 C. Yas. 51 C. Just don't remember. I don't know what you're 52 deceme aware of the lawsuit. Is it fair to say that you're 53 deceme aware of the lawsuit had though. I don't know what you're 54 capture file you had sure that I don't know what you're 55 capture file you have no memory of when the day 56 times they you finished recaining the Complaint, did 57 you think that there was a passibility that you would 58 reason to doubt that though. I don't know what you're 59 deceme aware of the lawsuit. Is it fair to say that you're 59 deceme aware of the lawsuit. Is it fair to say that you're 59 deceme aware of the lawsuit. Is it fair to say that you're 59 deceme			10	were against you?
to National Union. Have you seen that document to before? A. I don't remember it, but I'm sure I must have. A. I don't remember it, but I'm sure I must have. A. Ves. Do you heleve this document is related to the lawsuit that Heller filed against you? A. Ves. Do you are call when Heller filed the lawsuit against you? A. No, I don't. Do you'd you have any reason to doubt that? A. No, I don't. Do you know if you discussed Exhibit 5 with any need to be seen that letter to National Union? A. I'm sure, but I just don't recall. Do you recall when you personally first became aware of the lawsuit that Heller had filed against you? A. No really. I would guess that I was served at my home. Do you believe it would have been prior to the blanch at the that Attomery Aceto sent Exhibit 5 to National Union? A. Not really. Do you believe it would have been prior to the blanch at the that Attomery Aceto sent Exhibit 5 to National Union? A. I just don't remember. I don't know what you're getting at. Do I just don't remember. I don't know what you're getting at. A. I just don't remember. I don't know what you're getting at. A. I just don't remember. I don't know what you're getting at. A. I just don't remember. I don't know what you're getting at. A. I just don't remember. I don't know what you're getting at. A. I just don't remember. I don't know what you're getting at. A. I just don't remember. I don't know what you're getting at. A. I just don't remember. I don't know what you're getting at. A. I just don't remember. I don't know what you're getting at. A. I just don't remember. I don't know what you're getting at. A. I just don't remember. I don't know what you're getting at. A. I just don't remember. I don't know what you're getting at. A. I just don't remember. I don't know what you're getting at. A. I just don't remember. I don't know what you're getting at. A. I just don't remember. I don't know what you're getting at. A. I just don't remember. I don't know what you're getting at. A. I jus			11	A. I remember it was a misrepresentation and the
Aceto to National Union. Have you seen that document is before? A lidon't ramember it, but I'm sure I must have. Do you believe this document is related to the lawsuit that Heller filed against you? A Ves. 18 A. I'm sure I did. Do you recall when Heller filed the lawsuit. 19 Q. And by the Complaint, I meant the Complaint of Heller against you? A No, I don't. 20 A. No, I don't. 21 A. Right. A No, I don't. 22 Q. If I told you that suit was filed on August 1, 22 Q. And by the Complaint, were you aware. 24 A. No. 19 Q. And by the Complaint, I meant the Complaint of Heller against you? 10 A. No, I don't. 22 A. Right. 10 Q. And by the Complaint, I meant the Complaint of Heller against you? 11 A. No, I don't. 22 A. Right. 12 Q. After reading that Complaint, were you aware. 24 A. Yes. 18 A. Ves. 34 A. Yes. 19 Q. And do you recall how much those elleged damages were? 19 Q. And do you recall how much those elleged damages were? 10 Q. Do you know if you discussed Pixhibit. 5 with 3 A. Not really. I would guess that I was served at my home. 10 Q. Do you recall when you personally first became aware of the lawsuit that Heller had filed against you? 10 Deep? 11 A. Not really. I would guess that I was served at time, you were aware that Heller was seeking to have you personally held listole, cornect? 10 Deeps been? 11 A. Not really. I would guess that I was served at time, you were aware that Heller was seeking to have you personally held listole, cornect? 10 Deeps been? 11 A. Not really. I would pure the day and the the file of the lawsuit had though a personal that the pure was a possibility that you might have to pay some amount of money to Heller as a result of their lawsuit against: 19 personally held listole, cornect? 11 A. Didn't you just say they filed it August 1? 12 You? 13 A. It had you consider that there was a possibility that you would have been eaver of the lawsuit. 19 the time when you finished reading like Complaint, did you think that there was nothing is an entire day on the pure wa			12	breach of guaranty.
14 before? 15 A. I don't remember it, but I'm sure I must have. 16 Q. Do your believe this document is related to the 17 lawsuit that Heller filed against you? 18 A. Yes. 19 Q. Do you recall when Heller filed the lawsuit. 19 Q. Do you recall when Heller filed the lawsuit. 20 Q. I'i I told you that suit was filed on August 1, 21 Q. I'i I told you that suit was filed on August 1, 22 Q. I'i I told you that suit was filed on August 1, 23 2002, would you have any reason to doubt that? 24 A. No. 25 A. Yes. 26 Gregory Aceto before he sent that letter to National 27 Q. Do you know if you discussed Exhibit 5 with 28 Q. Do you recall when you personally first became 29 Q. But you have no memory of when that would have 29 Q. But you have no memory of when that would have 20 peen? 21 A. Not really. 22 Q. Do you believe it would have been prior to the 23 time that Actomey Aceto sent Exhibit 5 to National 24 Q. Tim just trying to get at when you first 25 Q. I uncerstand that. I'm simply asking if at the time when you finished reading the Complaint, did you read lit? 28 A. I'm sure it did. 39 Q. And by you consider that there was a possibility that you might have to pay some amount of money to Heller as a result of their lawsuit against you? 30 Q. And after you read the Complaint the first the time, you were aware that Heller was seeking to have you personally held liable, correct? 30 Q. And after you read the Complaint the first time, you were aware that Heller was seeking to have you personally held liable, correct? 31 A. Not really. 32 Q. Do you believe it would have been prior to the 33 A. Not seelifically, but I know it was in the millions of dollars and treble damages. 4 A. Orrect. 5 Q. And after you read the Complaint, the first time, you were aware that Heller was seeking to have you personally held liable, correct? 3 A. Correct. 4 A. Didn't you just say they filed it August 1? 5 Q. Do you believe it would have been prior to the 6 Q. I'm just trying to get at when you first have to end up having to pay. That doesn't m			13	Q. And you believed you were served with the
15 A. I don't remember it, but I'm sure I must have. 16 Q. Do you believe this document is related to the lawsuit that Heller filed against you? 18 A. Yes. 19 Q. Do you recall when Heller filed the lawsuit. 19 Q. Do you recall when Heller filed the lawsuit. 20 against you? 21 A. No, I don't. 22 Q. If I told you that suit was filed on August 3, 2002, would you have any reason to doubt that? 23 2002, would you have any reason to doubt that? 24 A. No. 25 Yes. 26 To Do you know if you discussed Exhibit 5 with 10 Q. And do you recall how much those alleged darrages were? 26 Gregory Aceto before he sent that letter to National 20 Julion? 27 A. No treally. 28 A. Not really. 39 Q. But you have no memory of when that would have 20 been? 30 Q. Do you leave that I was served 3 A. Not really. 30 Q. Do you leave that I would guess that I was served 4 at my home. 31 Union? 32 Q. But you have no memory of when that would have 20 been? 33 Q. Do you believe it would have been prior to the 21 you? 34 A. Not really. 35 Q. Do you believe it would have been prior to the 21 you? 36 Q. Yes. 37 A. I don't know. I just don't received a copy of the 20 Q. And by the Complaint, I meant the Complaint of Heller against you? 40 A. Not really. 41 Q. And do you recall when you read the Complaint though those alleged darrages were? 42 A. Yes. 43 A. Not specifically, but I know it was in the millions of dollars and treble damages. 44 A. Tim sure, but I just don't recall. 45 Q. But you have no memory of when that would have 90 Q. At that time did you consider that there was a possibility that you might have to end up having to pay. That doesn't make it 1 the that Altorney Aceto sent Exhibit 5 to National 11 money to Heller as a result of their lawsuit against you would 12 you think that there was a possibility that you would 13 have to end up having to pay. That doesn't make it 1 the through 1 don't know what you're 14 the time when you linished reading the Complaint, did 12 you think that there was a possibility that you would 14 you think that			14	lawsuit at your home?
16 Q. Do you believe this document is related to the 17 lawsuit that Helter filed against you? 18 A. Yes. 19 Q. Do you recall when Helter filed the lawsuit 19 Q. And by the Complaint, I meant the Complaint of 20 against you? 21 A. No, I don't. 22 Q. If I told you that suit was filed on August I, 23 2002, would you have any reason to doubt that? 24 A. No. 25 Yes. 26 A. Yes. 27 A. No. 28 A. Yes. 29 Q. After reading that Complaint, were you aware 29 A. No. 29 A. Yes. 20 A. Are reading that Complaint, were you aware 29 A. No. 29 A. Yes. 20 A. Are reading that Complaint, were you aware 29 A. No. 29 A. Yes. 20 A. Are reading that Complaint, were you aware 29 A. No. 20 Do you know if you discussed Exhibit 5 with 20 Gregory Aceto before he sent that letter to National 21 Union? 22 A. I'm sure, but I just don't recall. 23 Do you recall when you personally first became 24 A. Not really. 25 Q. But you have no memory of when that would have 26 at my home. 27 A. Not really. 28 A. Correct. 29 Q. But you have no memory of when that would have 29 Q. But you have no memory of when that would have 29 Do you believe it would have been prior to the 29 Long of the lawsuit against you? 20 Juncerstand that. I'm simply asking if at 20 Juncerstand that. I'm simply asking if at 21 Linion? 22 yeur 23 Linion you do not that though. I don't know what you're 24 Long or you believe it would have you first 25 Linion you do not that though. I don't know what you're 26 yeur 27 Long just trying to get at when you first 28 became aware of the lawsuit, Is it fair to say that you 29 personally held iable, correct? 30 Juncerstand that. I'm simply asking if at 31 the time when you finished reading the Complaint, of 32 Juncerstand that. I'm simply asking if at 33 Juncerstand that. I'm simply asking if at 34 the time when you finished reading the Complaint, of 35 Juncerstand that. I'm simply asking if at 36 Juncerstand that. I'm simply asking if at 37 the time when you finished reading the Complaint, of 38 Juncerstand that. I'm simply asking if at 39 y			15	A. I don't know. I just don't remember where.
Toward that Heller filed against you?			16	Q. When you first received a copy of the
18 A. I'm sure I did. 19 Q. Do you recall when Heller filed the lawsuit 19 Q. And by the Complaint, I meant the Complaint of Peller against you? 20 And by the Complaint, I meant the Complaint of Peller against you? 21 A. No. I don't. 22 Q. If I told you that suit was filed on August 1, 22 Q. After reading that Complaint, were you aware Peller against you? 23 2002, would you have any reason to doubt that? 24 A. No. 24 A. Yes. 56 Q. Do you know if you discussed Exhibit 5 with 2 Q. And do you recall how much those alleged demages were? 30 Union? 31 A. Not specifically, but I know it was in the millions of dollars and treble damages. 4 A. I'm sure, but I just don't recall. 4 millions of dollars and treble damages. 5 Q. Do you recall when you personally first became aware of the lawsuit that Heller had filed against you? 7 A. Not really. I would guess that I was served at the would have been prior to the Personally held liable, correct? 8 A. Correct. 9 Q. But you have no memory of when that would have been prior to the Personally held liable, correct? 10 I whom? 11 I whom? 12 Q. Do you believe it would have been prior to the Union? 13 I whom that Attorney Aceto sent Exhibit 5 to National 10 I whom? 14 Library Aceto sent Exhibit 5 to National 11 I whom it was a result of their lawsuit against you? 15 Personally held liable, correct? 16 Q. I understand that. I'm simply asking if at the time when you first became aware of the lawsuit. Is it fair to say that you're getting at. 16 Q. I'm just trying to get at when you first 20 you? 17 A. I just don't remember. I don't have any 17 the time when you finished reading the Complaint, did you think that three was a possibility that you would have to end up having to pay. That doesn't make it you finished reading the Complaint, did you think that three was a possibility that you would have to end up having to pay. That doesn't make it you think that three was a possibility that you would have to end up having to pay some money to Heller either by your fin		•	17	Complaint, did you read it?
19 Q. Do you recall when Heller filed the lawsuit 20 against you? 21 A. No, I don't. 22 Q. If I told you that suit was filed on August 1, 23 2002, would you have any reason to doubt that? 24 A. No. 25 A. No. 26 And do you recall how much those alleged 26 Gregory Aceto before he sent that letter to National 27 Q. Do you know if you discussed Exhibit 5 with 28 Gregory Aceto before he sent that letter to National 29 Union? 20 Q. And do you recall how much those alleged 20 damages were? 30 Union? 4 A. I'm sure, but I just don't recall. 5 Q. Do you recall when you personally first became 6 aware of the lawsuit that Heller had filed against you? 7 A. Not really. I would guess that I was served 8 at my home. 9 Q. But you have no memory of when that would have 10 been? 11 A. Not really. 12 Q. Do you believe it would have been prior to the 13 time that Actorney Aceto sent Exhibit 5 to National 14 Union? 15 A. Didn't you just say they filed it August 1? 16 Q. Yes. 17 A. I just don't remember. I don't have any 18 reason to doubt that though, I don't know what you're 19 getting at. Q. I'm just trying to get at when you first became aware of the lawsuit. Is it fair to say that you 10 that Actorney Aceto sent Exhibit 5 on your behalf? 21 A. If the lawsuit was filed on the first and this 22 that Actorney Aceto sent Exhibit 5 on your behalf? 23 A. Well, no. I mean, I knew that I didn't owe 24 a. Yes. 25 A. And do you recall how much those alleged 26 damages were? 28 damages were? 39 A. Not specifically, but I know it was in the 30 A. Not specifically, but I know it was in the 31 dimilions of dollars and treble damages. 30 A. Not specifically, but I know it was in the 31 time, you were aware that Heller have any 31 A. Not really. 32 A. I think anyone who is sued thinks you might 33 A. Correct. 44 A. I'm simply asking if at 45 You? 46 Yes. 47 A. I think anyone who is sued thinks you might 48 I have to end up having to pay. That doesn't make it 49 You think that there was a possibility that you would 49 have to at some point pay			18	A. I'm sure I did.
20 against you? 21 A. No, I don't. 22 Q. If I told you that suit was filed on August 1, 23 2002, would you have any reason to doubt that? 24 A. No. 25 Yes. 26 To Q. Do you know if you discussed Exhibit 5 with 26 Gregory Aceto before he sent that letter to National 3 Union? 3 A. Not specifically, but I know it was in the millions of dollars and treble damages. 4 A. I'm sure, but I just don't recall. 5 Q. Do you recall when you personally first became aware of the lawsuit that Heller had filed against you? 7 A. Not really. I would guess that I was served at my home. 9 Q. But you have no memory of when that would have been prior to the 20 you? 10 A. Not really. 11 A. Not really. 12 Q. Do you believe it would have been prior to the 21 time that Attorney Aceto sent Exhibit 5 to National 29 getting at. 10 Q. I'm just trying to get at when you first became aware of the lawsuit. Is it fiel to say that you wush have been aware of the lawsuit. Is it fiel to say that you wush aware of the lawsuit. Is it fiel to say that you wush ave been aware of the lawsuit. Is it fiel to say that you wush have been prior to the 30 you believe it would have been prior to the 31 you? 3 A. I think anyone who is sued thinks you might have to end up having to pay. That doesn't make it right. 4 Q. I'm just trying to get at when you first you you settlement or judgment? 5 A. Didn't you just say they filed it August 1? 6 Q. I'm just trying to get at when you first you wush have been aware of the lawsuit. Is it fiel to say that you wush have been aware of the lawsuit. Is it fiel to say that you wush have been aware of the lawsuit is it fiel to say that you wush have been aware of the lawsuit is it fiel to say that you wush have been aware of the lawsuit is it fiel to say that you wush have been aware of the lawsuit is it fiel to say that you wush have been aware of the lawsuit is it fiel to say that you wush have been aware of the lawsuit is in fiel to any thing. Whether this whole thing worked against was and I ended up being stuck with somethi			19	Q. And by the Complaint, I meant the Complaint of
21 A. No, I don't. 22 Q. If I told you that suit was filed on August 1, 23 2002, would you have any reason to doubt that? 24 A. No. 25 Heller was seeking monetary damages against you? 26 A. No. 27 A. No. 28 A. Yes. 29 A. No. 29 A. No. 20 Do you know if you discussed Exhibit 5 with 1 Q. And do you recall how much those alleged damages were? 30 Union? 31 A. Not specifically, but I know it was in the millions of dollars and treble damages. 30 Do you recall when you personally first became aware of the lawsuit that Heller had filed against you? 40 A. Not really. I would guess that I was served at a my home. 41 A. Not really. I would guess that I was served at a my home. 42 A. Not really. 43 A. Not really. 44 A. Not really. 45 A. Not really. 46 Do you believe it would have been prior to the 12 you? 47 A. Not really. 48 A. Didn't you just say they filed it August 1? 49 A. Didn't you just say they filed it August 1? 40 C. Yes. 41 C. I'm just don't remember. I don't have any 17 the time when you finst have to a doubt that though. I don't have any 17 the time when you finst have been aware of the lawsuit. Is it fair to say that you 20 must have been aware of the lawsuit, Is it fair to say that you 20 must have been aware of the lawsuit prior to the day 21 that Attorney Aceto sent Exhibit 5 to National 22 must have been aware of the lawsuit prior to the day 22 must have been aware of the lawsuit prior to the day 23 that Attorney Aceto sent Exhibit 5 to nyour behalf? 24 A. I'the lawsuit was filed on the first and this 24 different matter. All I know is that there was anothing			20	Heller against you?
22 Q. After reading that Complaint, were you aware 23 2002, would you have any reason to doubt that? 24 A. No. 25 No. 26 A. No. 26 A. Yes. 58 Q. Do you know if you discussed Exhibit 5 with 27 Gregory Aceto before he sent that letter to National 28 Union? 39 A. Not specifically, but I know it was in the 39 A. Not specifically, but I know it was in the 39 A. Not specifically, but I know it was in the 39 A. Not specifically, but I know it was in the 30 A. Not specifically, but I know it was in the 30 A. Not specifically, but I know it was in the 30 A. Not specifically, but I know it was in the 30 A. Not specifically, but I know it was in the 31 A. Not specifically, but I know it was in the 42 millions of dollars and treble damages. 43 A. Not really. I would guess that I was served 44 at my home. 45 A. Not really. I would guess that I was served 45 at my home. 46 A. Not really. I would have been prior to the 47 A. Not really. 48 A. Not really. 49 A. Didn't you just say they filed it August 1? 40 A. I just don't remember. I don't have any 40 reason to doubt that though. I don't know what you're 40 getting at. 40 C. I'm just trying to get at when you first 40 C. I'm just trying to get at when you first 40 C. I'm just trying to get at when you first 41 Decame aware of the lawsuit. Is it fair to say that you 42 must have been aware of the lawsuit prior to the day 43 that Attorney Aceto sent Exhibit 5 on your behalf? 44 A. If the lawsuit was filed on the first and this 45 A. If the lawsuit was filed on the first and this 46 A. I just though the daw suit and in the first and this 47 A. I just the lawsuit spior to the day 48 A. I fit he lawsuit was filed on the first and this 49 A. If the lawsuit was filed on the first and this 50 A. I find the was a possibility that you would 51 A. Well, no. I mean, I knew that I didn't owe 54 A. I find the lawsuit was filed on the first and this 54 A. If the lawsuit was filed on the first and this 55 A. I find the was a possibility that there was anothing			21	
23 Heller was seeking monetary damages against you? 24 A. No. 54 A. No. 54 C. Do you know if you discussed Exhibit 5 with Gregory Aceto before he sent that letter to National Gregory Aceto before he sent that letter to National A. I'm sure, but I just don't recall. G. Do you recall when you personally first became aware of the lawsuit that Heller had filed against you? A. Not really. I would guess that I was served a try home. G. But you have no memory of when that would have Dean? A. Not really. Do you believe it would have been prior to the Line that Attorney Aceto sent Exhibit 5 to National Line that Attorney Aceto sent Exhibit 5 to National A. Didn't you just say they filed it August 1? A. Didn't you just say they filed it August 1? A. I just don't remember. I don't know what you're personally have to end up having to pay. That doesn't make it right. C. I'm just trying to get at when you first became aware of the lawsuit. Is it fair to say that you must have been aware of the lawsuit prior to the day that Attorney Aceto sent Exhibit 5 to nyour behalf? A. If the lawsuit was filed on the first and this 4 Heller was seeking monetary damages against you? A. And do you recall how much those alleged damages were? A. And offer you read the Complaint the first millions of dollars and treble damages. C. And after you read the Complaint the first time, you were aware that Heller was seeking to have you personally held liable, cornect? A. Correct. D. And that time did you consider that there was a possibility that you might have to pay some amount of money to Heller as a result of their lawsuit against you? 14		·	22	Q. After reading that Complaint, were you aware
A. No. 54 Q. Do you know if you discussed Exhibit 5 with 56 1 Q. Do you know if you discussed Exhibit 5 with 1 Q. And do you recall how much those alleged damages were? 3 Union? 3 A. Not specifically, but I know it was in the millions of dollars and treble damages. 4 A. I'm sure, but I just don't recall. 4 millions of dollars and treble damages. 5 Q. Do you recall when you personally first became aware of the lawsuit that Heller had filed against you? 6 time, you were aware that Heller was seeking to have you personally held liable, correct? 8 A. Not really. I would guess that I was served at my home. 8 A. Correct. 9 Q. At that time did you consider that there was a possibility that you might have to pay some amount of money to Heller as a result of their lawsuit against union of the lawsuit you just say they filed it August 1? 12 you? 13 Lime that Attorney Aceto sent Exhibit 5 to National 13 A. I think anyone who is sued thinks you might have to end up having to pay. That doesn't make it right. 9 Q. Yes. 16 Q. I understand that. I'm simply asking if at the time when you finished reading the Complaint, did you think that there was a possibility that you would have became aware of the lawsuit. Is it fair to say that you might have to a some point pay some money to Heller either by way of settlement or judgment? 14 Well, no. I mean, I knew that I didn't owe any that Attorney Aceto sent Exhibit 5 on your behalf? 15 A. If the lawsuit was filed on the first and this 4 different matter. All I know is that there was a possibility and it ended up being stuck with something is an entired different matter. All I know is that there was an entired different matter. All I know is that there was anothing different matter. All I know is that there was anothing different matter. All I know is that there was anothing different matter. All I know is that there was anothing different matter. All I know is that there was anothing different matter.			23	Heller was seeking monetary damages against you?
1 Q. Do you know if you discussed Exhibit 5 with 2 Gregory Aceto before he sent that letter to National 3 Union? 3 A. Not specifically, but I know it was in the millions of dollars and treble damages. 5 Q. Do you recall when you personally first became 6 aware of the lawsuit that Heller had filed against you? 7 A. Not really. I would guess that I was served 8 at my home. 9 Q. But you have no memory of when that would have 9 been? 10 possibility that you might have to pay some amount of money to Heller as a result of their lawsuit against you? 11 A. Not really. 12 Q. Do you believe it would have been prior to the 12 you? 13 time that Attorney Aceto sent Exhibit 5 to National 14 Luion? 15 A. Didn't you just say they filed it August 1? 16 Q. Yes. 17 A. I just don't remember. I don't know what you're getting at. 18 Q. I'm just trying to get at when you first became aware of the lawsuit prior to the day 20 must have been aware of the lawsuit prior to the day 21 that Attorney Aceto sent Exhibit 5 to nyour behalf? 20 A. If the lawsuit was filed on the first and this 21 A. If the lawsuit was filed on the first and this 22 A. If the lawsuit was filed on the first and this 24 A. If the lawsuit was filed on the first and this 25 A. If the lawsuit was filed on the first and this 26 A. If the lawsuit was filed on the first and this 27 A. If the lawsuit was filed on the first and this 28 A. First do you recall how much those alleged damages. 29 A. Not specifically, but I know it was in the millions of dollars and repled damages. 3 A. Not specifically, but I know it was in the millions of dollars and reble damages. 4 Correct. 4 D. And after you read the Complaint the first millions of dollars and reble damages. 5 Q. And after you read the Complaint the first millions of dollars and reble damages. 6 A. Correct. 9 Q. At that time did you consider that there was a possibility that you might have to end up having to pay. That doesn't make it right. 19 Quit hink that there was a possibility that you would have to at some point p			24	· · · · · · · · · · · · · · · · · · ·
1 Q. Do you know if you discussed Exhibit 5 with 2 Gregory Aceto before he sent that letter to National 3 Union? 4 A. I'm sure, but I just don't recall. 5 Q. Do you recall when you personally first became 6 aware of the lawsuit that Heller had filed against you? 7 A. Not really. I would guess that I was served 8 at my home. 9 Q. But you have no memory of when that would have 9 been? 10 been? 11 A. Not really. 12 Q. Do you believe it would have been prior to the 13 time that Attorney Aceto sent Exhibit 5 to National 14 Union? 15 A. Didn't you just say they filed it August 1? 16 Q. Yes. 17 A. I just don't remember. I don't have any reason to doubt that though. I don't know what you're getting at. Q. I'm just trying to get at when you first became aware of the lawsuit. Is it fair to say that you must have been aware of the lawsuit prior to the day unto the prior to the day that Attorney Aceto sent Exhibit 5 on your behalf? A. If the lawsuit was filed on the first and this 2 damages were? 3 A. Not specifically, but I know it was in the millions of dollars and treble damages. 9 Q. And after you read the Complaint the first time, you were aware that Heller was seeking to have you personally held liable, correct? 8 A. Correct. 9 Q. At that time did you consider that there was a possibility that you might have to pay some amount of money to Heller as a result of their lawsuit against you? 10 you? 11 have to end up having to pay. That doesn't make it right. 12 you? 13 A. I think anyone who is sued thinks you might have to end up having to pay. That doesn't make it right. 14 have to end up having to pay. That doesn't make it the time when you finished reading the Complaint, did you think that there was a possibility that you would have to also some point pay some money to Heller either by way of settlement or judgment? A. Well, no. I mean, I knew that I didn't owe anything. Whether this whole thing worked against mand I ended up being stuck with something is an entire different matter. All I know is that there	, -			56
2 damages were? 3 Union? 4 A. I'm sure, but I just don't recall. 5 Q. Do you recall when you personally first became aware of the lawsuit that Heller had filed against you? 6 A. Not really. I would guess that I was served at my home. 9 Q. But you have no memory of when that would have been? 10 been? 11 A. Not really. 12 Q. Do you believe it would have been prior to the time that Attorney Aceto sent Exhibit 5 to National time that Attorney Aceto sent Exhibit 5 to National reason to doubt that though. I don't have any getting at. Q. I'm just trying to get at when you first became aware of the lawsuit. Is it fair to say that you must have been aware of the lawsuit was filed on the first and this don't remember. I don't have any must have been aware of the lawsuit prior to the day that Attorney Aceto sent Exhibit 5 on your behalif? A. If the lawsuit was filed on the first and this damages were? 3 A. Not specifically, but I know it was in the millions of dollars and treble damages. 4 millions of dollars and treble damages. 5 Q. And after you read the Complaint the first time, you were aware that Heller was seeking to have you personally held liable, correct? 8 A. Correct. 9 Q. At that time did you consider that there was a possibility that you might have to pay some amount of money to Heller as a result of their lawsuit against you? 10 possibility that you might have to pay some who is sued thinks you might have to end up having to pay. That doesn't make it right. 12 Q. I understand that. I'm simply asking if at the time when you finished reading the Complaint, did you think that there was a possibility that you would have to at some point pay some money to Helier either by way of settlement or judgment? 2 A. Well, no. I mean, I knew that I didn't owe anything. Whether this whole thing worked against mand I ended up being stuck with something is an entire different matter. All I know is that there was nothing and ifferent matter. All I know is that there was nothing and ifferent matter. All I know is that th	1	O Do you know if you discussed Exhibit 5 with	1	Q. And do you recall how much those alleged
3 A. Not specifically, but I know it was in the 4 A. I'm sure, but I just don't recall. 5 Q. Do you recall when you personally first became 6 aware of the lawsuit that Heller had filed against you? 7 A. Not really. I would guess that I was served 8 at my home. 9 Q. But you have no memory of when that would have 10 been? 11 A. Not really. 12 Q. Do you believe it would have been prior to the 13 time that Attorney Aceto sent Exhibit 5 to National 14 Union? 15 A. Didn't you just say they filed it August 1? 16 Q. Yes. 17 A. I just don't remember. I don't have any 18 reason to doubt that though. I don't know what you're 19 getting at. Q. I'm just trying to get at when you first became aware of the lawsuit. Is it fair to say that you 20 must have been aware of the lawsuit. For your behalif? 21 A. If the lawsuit was filed on the first and this 24 A. If the lawsuit was filed on the first and this 24 In the tame was a possibility that you wish that there was a result of their lawsuit against time, you way of settlement or judgment? 24 A. If the lawsuit was filed on the first and this 25 Q. And after you read the Complaint the first time, you were aware that Heller was seeking to have you personally held liable, correct? 4 A. Correct. 9 Q. At that time did you consider that there was a possibility that you might have to pay some amount of money to Heller as a result of their lawsuit against was result of their lawsuit against I their tright. 12 A. I think anyone who is sued thinks you might have to end up having to pay. That doesn't make it right. 13 A. I think anyone who is sued thinks you might have to end up having to pay. That doesn't make it right. 24 A. I just don't remember. I don't know what you're 25 A. I just don't remember. I don't know what you're 26 A. I just trying to get at when you first 27 A. Well, no. I mean, I knew that I didn't owe 28 anything. Whether this whole thing worked against mand I ended up being stuck with something is an entire different matter. All I know is that there was nothing	-	-	2	
4 A. I'm sure, but I just don't recall. 5 Q. Do you recall when you personally first became 6 aware of the lawsuit that Heller had filed against you? 7 A. Not really. I would guess that I was served 8 at my home. 9 Q. But you have no memory of when that would have 9 been? 10 possibility that you might have to pay some amount of money to Heller as a result of their lawsuit against 10 you? 11 A. Not really. 12 Q. Do you believe it would have been prior to the 13 time that Attorney Aceto sent Exhibit 5 to National 14 Union? 15 A. Didn't you just say they filed it August 1? 16 Q. Yes. 17 A. I just don't remember. I don't have any 18 reason to doubt that though. I don't know what you're 19 getting at. Q. I'm just trying to get at when you first became aware of the lawsuit. Is it fair to say that you 20 must have been aware of the lawsuit prior to the day 21 that Attorney Aceto sent Exhibit 5 on your behalf? 22 A. If the lawsuit was filed on the first and this 24 Mill know is that there was nothing			3	
Q. Do you recall when you personally first became aware of the lawsuit that Heller had filed against you? A. Not really. I would guess that I was served at my home. Q. But you have no memory of when that would have been? A. Not really. A. Not really. But you have no memory of when that would have Deen? A. Not really. Do you believe it would have been prior to the time that Attorney Aceto sent Exhibit 5 to National Lunion? A. Didn't you just say they filed it August 1? A. Didn't you just say they filed it August 1? A. I just don't remember. I don't have any reason to doubt that though. I don't know what you're getting at. Q. I'm just trying to get at when you first became aware of the lawsuit. Is it fair to say that you must have been aware of the lawsuit prior to the day that Attorney Aceto sent Exhibit 5 on your behalf? A. If the lawsuit was filed on the first and this Da A. I think anyone who is sued thinks you might have to end up having to pay. That doesn't make it right. Q. I understand that. I'm simply asking if at the time when you finished reading the Complaint, did you think that there was a possibility that you would have to at some point pay some money to Heller either by way of settlement or judgment? A. Well, no. I mean, I knew that I didn't owe any that Attorney Aceto sent Exhibit 5 on your behalf? A. If the lawsuit was filed on the first and this Da A. I think anyone who is sued thinks you might have to end up having to pay. That doesn't make it right. Da A. I think anyone who is sued thinks you might have to end up having to pay. That doesn't make it right. Da A. I think anyone who is sued thinks you might have to end up having to pay. That doesn't make it right. Da A. I think anyone who is sued thinks you might have to end up having to pay. That doesn't make it right. Da A. I think anyone who is sued thinks you might have to end up having to pay. A. I think anyone who is understa			4	
6 aware of the lawsuit that Heller had filed against you? 7 A. Not really. I would guess that I was served 8 at my home. 9 Q. But you have no memory of when that would have 10 been? 11 A. Not really. 12 Q. Do you believe it would have been prior to the 13 time that Attorney Aceto sent Exhibit 5 to National 14 Union? 15 A. Didn't you just say they filed it August 1? 16 Q. Yes. 17 A. I just don't remember. I don't have any 18 reason to doubt that though. I don't know what you're 19 getting at. Q. I 'I'm just trying to get at when you first became aware of the lawsuit was filed on the first and this 20 A. If the lawsuit was filed on the first and this 21 C. West at time did you consider that there was a possibility that you might have to pay some amount of money to Heller as a result of their lawsuit against you? 10 possibility that you might have to pay some amount of money to Heller as a result of their lawsuit against there was a result of their lawsuit against there was a result of their lawsuit against there was a result of their lawsuit against you? 11 have to end up having to pay. That doesn't make it right. 12 Q. I understand that. I'm simply asking if at the time when you finished reading the Complaint, did you think that there was a possibility that you would have to at some point pay some money to Heller either by way of settlement or judgment? 14 A. Well, no. I mean, I knew that I didn't owe anything. Whether this whole thing worked against mand I ended up being stuck with something is an entire and I ended up being stuck with something is an entire and I ended up being stuck with something is an entire and ifferent matter. All I know is that there was nothing.			5	
A. Not really. I would guess that I was served 8 at my home. 9 Q. But you have no memory of when that would have 9 Q. At that time did you consider that there was a 10 been? 10 possibility that you might have to pay some amount of 11 A. Not really. 12 Q. Do you believe it would have been prior to the 13 A. I think anyone who is sued thinks you might 14 Union? 15 A. Didn't you just say they filed it August 1? 16 Q. Yes. 17 A. I just don't remember. I don't have any 18 reason to doubt that though. I don't know what you're 19 getting at. Q. I'm just trying to get at when you first Decame aware of the lawsuit. Is it fair to say that you must have been aware of the lawsuit prior to the day that Attorney Aceto sent Exhibit 5 on your behalf? A. If the lawsuit was filed on the first and this 24 A. If the lawsuit was filed on the first and this 25 A. Urnorect. 9 Q. At that time did you consider that there was a possibility that you might have to pay some amount of money to Heller as a result of their lawsuit against 10 possibility that you might have to pay some amount of money to Heller as a result of their lawsuit against 12 you? 13 A. I think anyone who is sued thinks you might have to end up having to pay. That doesn't make it right. Q. I understand that. I'm simply asking if at the time when you finished reading the Complaint, did you think that there was a possibility that you would have to at some point pay some money to Heller either by way of settlement or judgment? A. Well, no. I mean, I knew that I didn't owe anything. Whether this whole thing worked against m and I ended up being stuck with something is an entire different matter. All I know is that there was nothing	_	•	6	time, you were aware that Heller was seeking to have you
8 at my home. 9 Q. But you have no memory of when that would have 10 been? 10 been? 11 A. Not really. 12 Q. Do you believe it would have been prior to the 13 time that Attorney Aceto sent Exhibit 5 to National 14 Union? 15 A. Didn't you just say they filed it August 1? 16 Q. Yes. 17 A. I just don't remember. I don't have any 18 reason to doubt that though. I don't know what you're 19 getting at. Q. I'm just trying to get at when you first became aware of the lawsuit. Is it fair to say that you 20 must have been aware of the lawsuit prior to the day 21 A. If the lawsuit was filed on the first and this 24 different matter. All I know is that there was a nothing 24 different matter. All I know is that there was nothing				
9 Q. At that time did you consider that there was a 10 been? 11 A. Not really. 12 Q. Do you believe it would have been prior to the 13 time that Attorney Aceto sent Exhibit 5 to National 14 Union? 15 A. Didn't you just say they filed it August 1? 16 Q. Yes. 17 A. I just don't remember. I don't have any 18 reason to doubt that though. I don't know what you're 19 getting at. Q. I'm just trying to get at when you first became aware of the lawsuit. Is it fair to say that you 20 must have been aware of the lawsuit prior to the day 21 the lawsuit was filed on the first and this 22 different matter. All I know is that there was nenoting 24 different matter. All I know is that there was nenoting			8	
10 been? 11 A. Not really. 12 Q. Do you believe it would have been prior to the 12 you? 13 time that Attorney Aceto sent Exhibit 5 to National 13 A. I think anyone who is sued thinks you might have to end up having to pay. That doesn't make it 15 right. 16 Q. Yes. 16 Q. I understand that. I'm simply asking if at 17 the time when you finished reading the Complaint, did 18 reason to doubt that though. I don't know what you're 19 getting at. Q. I'm just trying to get at when you first 20 way of settlement or judgment? Leave to end up having to pay. That doesn't make it 15 right. Q. I understand that. I'm simply asking if at 17 the time when you finished reading the Complaint, did 18 you think that there was a possibility that you would 19 have to at some point pay some money to Heller either by 19 way of settlement or judgment? 20 way of settlement or judgment? 21 A. Well, no. I mean, I knew that I didn't owe 20 anything. Whether this whole thing worked against m 21 and I ended up being stuck with something is an entire 22 and I ended up being stuck with something is an entire 24 different matter. All I know is that there was nothing 25 different matter. All I know is that there was nothing 26 different matter. All I know is that there was nothing 26 different matter. All I know is that there was nothing 27 different matter.			9	Q. At that time did you consider that there was a
A. Not really. Q. Do you believe it would have been prior to the time that Attorney Aceto sent Exhibit 5 to National time that Attorney Aceto sent Exhibit 5 to National time that Attorney Aceto sent Exhibit 5 to National time that Attorney Aceto sent Exhibit 5 to National A. I think anyone who is sued thinks you might have to end up having to pay. That doesn't make it right. A. Didn't you just say they filed it August 1? If it is in a possibility that Journal is a possibility that you would that though. I don't have any reason to doubt that though. I don't know what you're getting at. Q. I'm just trying to get at when you first to a some point pay some money to Heller either by way of settlement or judgment? A. Well, no. I mean, I knew that I didn't owe any that Attorney Aceto sent Exhibit 5 on your behalf? A. If the lawsuit was filed on the first and this different matter. All I know is that there was nothing			10	
12 Q. Do you believe it would have been prior to the 13 time that Attorney Aceto sent Exhibit 5 to National 14 Union? 15 A. Didn't you just say they filed it August 1? 16 Q. Yes. 17 A. I just don't remember. I don't have any 18 reason to doubt that though. I don't know what you're 19 getting at. Q. I'm just trying to get at when you first 19 became aware of the lawsuit. Is it fair to say that you 20 must have been aware of the lawsuit prior to the day 21 A. If the lawsuit was filed on the first and this 22 different matter. All I know is that there was nothing				
time that Attorney Aceto sent Exhibit 5 to National 13		-		
14 Union? 15 A. Didn't you just say they filed it August 1? 16 Q. Yes. 17 A. I just don't remember. I don't have any 18 reason to doubt that though. I don't know what you're 19 getting at. Q. I'm just trying to get at when you first 20 became aware of the lawsuit. Is it fair to say that you 21 must have been aware of the lawsuit prior to the day 22 that Attorney Aceto sent Exhibit 5 on your behalf? A. If the lawsuit was filed on the first and this 14 have to end up having to pay. That doesn't make it right. 15 right. 16 Q. I understand that. I'm simply asking if at 17 the time when you finished reading the Complaint, did you think that there was a possibility that you would 18 have to at some point pay some money to Helier either by way of settlement or judgment? 20 way of settlement or judgment? A. Well, no. I mean, I knew that I didn't owe anything. Whether this whole thing worked against means and I ended up being stuck with something is an entire different matter. All I know is that there was nothing		·		•
A. Didn't you just say they filed it August 1? Q. Yes. 16 Q. Yes. 17 A. I just don't remember. I don't have any 18 reason to doubt that though. I don't know what you're 19 getting at. Q. I'm just trying to get at when you first Decame aware of the lawsuit. Is it fair to say that you 20 must have been aware of the lawsuit prior to the day 21 A. Well, no. I mean, I knew that I didn't owe 22 anything. Whether this whole thing worked against means and I ended up being stuck with something is an entire different matter. All I know is that there was nothing				
16 Q. Yes. 17 A. I just don't remember. I don't have any 18 reason to doubt that though. I don't know what you're 19 getting at. Q. I'm just trying to get at when you first Decame aware of the lawsuit. Is it fair to say that you 20 must have been aware of the lawsuit prior to the day 21 that Attorney Aceto sent Exhibit 5 on your behalf? 22 A. If the lawsuit was filed on the first and this 23 that Attorney Aceto sent Exhibit 5 on your behalf? 26 Q. I understand that. I'm simply asking if at 27 the time when you finished reading the Complaint, did 28 you think that there was a possibility that you would 29 way of settlement or judgment? 20 way of settlement or judgment? 21 A. Well, no. I mean, I knew that I didn't owe 22 anything. Whether this whole thing worked against means and I ended up being stuck with something is an entire different matter. All I know is that there was nothing				
A. I just don't remember. I don't have any reason to doubt that though. I don't know what you're getting at. Q. I'm just trying to get at when you first became aware of the lawsuit. Is it fair to say that you must have been aware of the lawsuit prior to the day that Attorney Aceto sent Exhibit 5 on your behalf? A. If the lawsuit was filed on the first and this 17 the time when you finished reading the Complaint, did you think that there was a possibility that you would have to at some point pay some money to Heller either by way of settlement or judgment? A. Well, no. I mean, I knew that I didn't owe anything. Whether this whole thing worked against means and I ended up being stuck with something is an entire different matter. All I know is that there was nothing				_
reason to doubt that though. I don't know what you're getting at. Q. I'm just trying to get at when you first became aware of the lawsuit. Is it fair to say that you must have been aware of the lawsuit prior to the day that Attorney Aceto sent Exhibit 5 on your behalf? A. If the lawsuit was filed on the first and this 18 you think that there was a possibility that you would have to at some point pay some money to Heller either by way of settlement or judgment? A. Well, no. I mean, I knew that I didn't owe anything. Whether this whole thing worked against means and I ended up being stuck with something is an entire different matter. All I know is that there was nothing				
19 have to at some point pay some money to Heller either by 20 way of settlement or judgment? 21 A. Well, no. I mean, I knew that I didn't owe 22 must have been aware of the lawsuit prior to the day 23 that Attorney Aceto sent Exhibit 5 on your behalf? 24 A. If the lawsuit was filed on the first and this 25 have to at some point pay some money to Heller either by 26 way of settlement or judgment? 27 A. Well, no. I mean, I knew that I didn't owe 28 anything. Whether this whole thing worked against mean and I ended up being stuck with something is an entire different matter. All I know is that there was nothing		·		
Q. I'm just trying to get at when you first became aware of the lawsuit. Is it fair to say that you must have been aware of the lawsuit prior to the day that Attorney Aceto sent Exhibit 5 on your behalf? A. If the lawsuit was filed on the first and this 20 way of settlement or judgment? A. Well, no. I mean, I knew that I didn't owe anything. Whether this whole thing worked against means and I ended up being stuck with something is an entire different matter. All I know is that there was nothing		·		
became aware of the lawsuit. Is it fair to say that you 21 A. Well, no. I mean, I knew that I didn't owe 22 must have been aware of the lawsuit prior to the day 23 that Attorney Aceto sent Exhibit 5 on your behalf? 24 A. If the lawsuit was filed on the first and this 25 A. Well, no. I mean, I knew that I didn't owe 26 anything. Whether this whole thing worked against means and I ended up being stuck with something is an entire different matter. All I know is that there was nothing	19	_		
22 must have been aware of the lawsuit prior to the day 23 that Attorney Aceto sent Exhibit 5 on your behalf? 24 A. If the lawsuit was filed on the first and this 25 anything. Whether this whole thing worked against m 26 and I ended up being stuck with something is an entire 27 different matter. All I know is that there was nothing	1			•
23 that Attorney Aceto sent Exhibit 5 on your behalf? 24 A. If the lawsuit was filed on the first and this 25 and I ended up being stuck with something is an entire different matter. All I know is that there was nothing				
24 A. If the lawsuit was filed on the first and this 24 different matter. All I know is that there was nothing				
14 of 74 of				
10/22/2006 08:07:13 PM Page 53 to 56 of 104 14 of 34 st	1			

	Case 1:05-cv-11128-NG Document	70-4	
	57		59
1	that was done that was wrong. And I knew I was dealing		Q. Shortly after October 11, 2002?
2	with some highly unethical people, so I don't know what	2	A. Yes.
3	the outcome would be.	3	Q. Did you read the letter at that time?
	Q. And by the highly unethical people, you're	4	A. I did.
	referring to the people at Heller?	5	Q. And
6	A. Absolutely.	6	A. Or I would have.
7	Q. At the time that you were served with the	7	Q. And do you believe that you understood what it
8	lawsuit, you believed you had insurance coverage under	8	meant?
9	the directors and officers liability policy issued by	9	A. Yes.
10	National Union?	10	Q. And was it your understanding that Mr. O'Neil
1	A. I thought I did.	11	was saying that on behalf of National Union there was no
12	Q. And at the time that you were served with the	12	coverage with respect to the claims brought by Heller?
13	lawsuit, you believed that National Union had an	13	A. Yes.
14	obligation to pay your defense costs in the suit by	14	Q. At that time did you believe Mr. O'Neil was
15	Heller?	15	correct?
16	A. Yes.	16	A. No.
17	Q. And at the time that you were served with the	17	MR. TUMILTY: We'll mark this as the next
18	lawsuit, did you also believe that if in the event a	18	exhibit.
19	judgment were ever entered against you in the suit by	19	(Document marked for identification as
20	Heller that National Union would be required to provide	20	Exhibit No. 7.)
21	coverage for that judgment?	21	BY MR. TUMILTY:
22	A. Yes, I think so.	22	 Q. I've handed you what the court reporter marked
23	Q. As you sit here today, do you understand what	23	as Exhibit 7. It's an e-mail from Gregory Aceto to
24	Exhibit 5 is requesting or asking for?	24	Joseph O'Neil dated November 7, 2002. Have you seen
-	58		60
1	A. Well, it's asking, the letter is basically	1	that document before?
2	asking National Union to provide coverage for our	2	A. I don't recall seeing it.
3	defense.	3	Q. Did you know that Attorney Aceto had sent this
4	Q. And did you understand that that was the	4	e-mail?
5	intent of the letter at the time that it was sent?	5	A. I just, as I sit here, I don't recall it at
6	A. I think so, yes.	6	all.
7	Q. And again, that's because, as you just	7	Q. You have no memory of whether you asked Mr.
8	testified, you believed you had insurance coverage with	8	Aceto to write this e-mail?
9	respect to the claims brought by Heller against you?	9	 A. No. I didn't specifically ask him to write
10	A. Right.	10	this e-mail. I mean, we were obviously talking about
11	MR. TUMILTY: I'll mark this next.	11	the subject matter. I just don't remember this.
12	(Document marked for identification as	12	Q. You can take whatever time you need. Have you
13	Exhibit No. 6.)	13	had a chance to review the e-mail?
14	BY MR. TUMILTY:	14	A. Yes.
15	Q. I handed you what the court reporter marked as	15	Q. Do you agree with the contents of it?
16	Exhibit 6. It's a two-page letter dated October 11,	16	A. It was 1998, and I wasn't involved with the
17	2002 from Joseph O'Neil to Gregory Aceto. Do you know	17	day to day and I never had any involvement ever in
18	if you've seen that document before?	18	compiling borrowing base certificates. So that's
19	A. I believe so.	19	accurate. Other than the date, I think that I basically
~ ^	Q. So you know when you first saw that document?	20	sometime in the May, June '98 period that's off by
	A. I don't know the date.	21	six months.
22	Q. Do you know approximately when you first saw	22	Q. But you agree with the position expressed in
23	the document?	23	the last paragraph of the body of that e-mail that you
		24	were an insured under the National Union policy and that
24	A. Shortly after that I would guess. Page 57		

	Case 1:05-cv-11128-NG Document	7 10- 4 €	
	61		63
1	according to the position set forth here by Attorney	4	Q. It's a two-page letter?
2	Aceto there was no applicable exclusion and that	2	A. Right.
3	National Union or AIG should be required to provide	3	Q. Do you know if you've ever seen that letter
	coverage and a defense to you?	4	before?
~	A. I think so. This is cut off.	5	A. I don't know.
6	Q. I apologize.	6	Q. Do you know if you have ever seen any of the
7	A. He played an active role I assume that's no	7	pages before that are in Exhibit 8?
8	active role. The word no is missing.	8	A. All I can tell you is that I remember
9	Q. I'm focusing on the sentence that appears to	9	requesting that Pam Jones send me a copy of the
10	say, "Thus, he is an insured under the policy of	10	directors and officers policy. I can't say that I
11	insurance and there are no applicable exclus should be	11	remember any of these pages. I wanted to make damn sure
12	provided a defense by AIG, regardless of whether an	12	we had a policy.
13	endorsement was or was not part of the policy (th still	13	Q. But you can't say sitting here today whether
14	remains unclear.)"	14	you've seen any of these pages before?
15	You agree with the sentiment that you should	15	A. No. But that's part of my memory problem.
16	have been provided coverage under the policy?	16	I've gone over a lot of documents on this case and I
17	A. Yes.	17	could have, I just don't remember.
18	MR. TUMILTY: Let's mark this as Exhibit	18	Q. I understand that. I'm trying to get your
19	8.	19	MR. ACETO: The question was more about at
20	(Document marked for identification as	20	the time period, not whether he reviewed it in
21	Exhibit No. 8.)	21	preparation for litigation or something, is that right?
22	BY MR. TUMILTY:	22	MR, TUMILTY: Right.
23	Q. I've handed you what the court reporter marked	23	MR. ACETO: Did you understand that?
24	as Exhibit 8. It's a document bearing Bates numbers IIG	24	THE WITNESS: Yes.
	62		64
1	00003 through IIG 00015. The first page of that Exhibit	1	MR. ACETO: It was when this was created
2	8 is a fax cover sheet from International Insurance	2	back in July of 2001 or sometime
3	Group to Gregory Aceto dated November 26, 2002. There	3	MR. TUMILTY: That's one question.
4	are enclosures with that fax after that. If you go two	4	BY MR. TUMILTY:
5	pages in, there's another fax cover sheet dated July 31,	5	Q. Simply sitting here today, do you have any
6	2001 to Pam Jones from Nicholas Sciotto at International	6	memory of seeing this document before, Exhibit 8?
7	Insurance Group. Have you seen Exhibit 8 before?	7	A. I don't remember seeing, I don't today
8	MR. ACETO: In its entirety? There are	8	remember seeing this. I do know that I had documents
9	separate documents that I'm not quite sure if they came	9	about the D & O policy sent to me. I saw something. I
10	together.	10	probably saw this. I just don't remember it today.
11	BY MR. TUMILTY:	11	Q. If you look at the first page of Exhibit 8,
12	A. I've never seen the fax pages.	12	the fax cover sheet to Gregory Aceto from International
13	(Off the record discussion.)	13	Insurance Group, the body of the message there says,
14	BY MR. TUMILTY:	14	"Attached is a copy of the quote sent to Pam Jones on
15	Q. To clarify, what has been marked as Exhibit 8	15	July 31, 2001. Please take note that the endorsement
16	here today consists of Bates numbers 0077 consecutively	16	noted 'For-Profit Health Care Amendatory Endorsement'
17	numbered to 0088. It's your testimony that you've never	17	was disclosed to our client. This endorsement contained
18	seen the first page of Exhibit 8 or the second page of	18	the verbiage regarding Contractual Liability Exclusion.
19	Exhibit 8 before?	19	Let me know if you require additional information." Do
-	A. I just don't know. I can't tell you that I	20	you see that?
	remember it. I mean, I could have.	21	A. I do.
22	Q. If you go into the third page of Exhibit 8,	22	Q. And to your understanding, is the reference
23	you'll see there's a letter dated July 27, 2001?	23	there to "our client" MHCS?
24	A. Um-hum.	24	MR. ACETO: If you know.
	A. Offi-fiditi.		

	Case 1::05-cv-111128-NG Documen	tt 770-4 6	
	65	1	67 Q. I understand that you're not going to know an
	BY MR. TUMILTY:	2	exact date. I'm just trying to get a frame of
2	A. I don't know.	3	reference. Shortly afterwards is a bit ambiguous. Do
3	Q. Do you have any reason to doubt that it would	4	you believe it would have been a matter of days that you
	be MHCS given that the fax was concerning an original		would have seen this letter after Attorney Aceto would
-	quote to Pam Jones?	5	
6	A. I don't know. I have no way of knowing.	6	have received it? A. It's all guesswork. All I know is that I have
7	Q. Isn't the real reason that there was no	7	
	interest in the National Union policy listed on your	8	seen this letter, but I don't have any reference in
	schedules in your bankruptcy because both you and your	9	time.
	attorney were aware of the contractual liability	10	Q. I take it that you don't have any idea when
A	exclusion and realized that you did not have coverage	A A	you first saw this letter then?
2	for the Heller case?	12	A. I mean, I'd be guessing.
3	A. No.	13	MR. ACETO: Don't guess.
4	MR. TUMILTY: This will be next.	14	BY MR. TUMILTY:
5	(Documents marked for identification as	15	Q. I don't want you to guess.
6	Exhibit No. 9 and 10.)	16	A. I just don't know.
7	BY MR. TUMILTY:	17	(Lunch recess.)
8	Q. I've handed you what the court reporter marked	18	(Document marked for identification as
9	as Exhibit 10. It's a one-page document dated November	19	Exhibit No. 11.)
	5, 2002 bearing Bates number 0102. Have you seen that	20	BY MR. TUMILTY:
	document before?	21	Q. Mr. Ingoldsby, I've handed you a one-page
22	A. I think so. I'm not clear.	22	document that the court reporter marked as Exhibit 11
23	Q. Do you have any understanding as to why	23	with the Bates number 588 at the bottom. Do you have
	Attorney Aceto wrote that letter to International	24	that in front of you?
-	Accept wrote that letter to International		68
4	Insurance Group when he did?	1	A. I do.
		2	Q. Have you seen that document before?
2		3	A. No.
_	review the file.	4	Q. Do you have any reason to doubt the accuracy
4	Q. And by "the file," what do you understand that	5	of it?
_	to be?	- 1	
6	A. I suppose as to the reason why we were denie	1	
7	coverage.	7	•
8	Q. I believe you have in front of you what the	8	Aceto or his law firm as a creditor on your bankruptcy
9	court reporter marked as Exhibit 9?	9	schedules?
10	A. Yes.	10	A. Yes.
11	Q. A letter dated March 6, 2003 to Gregory Aceto	11	Q. And do you recall approximately how much you
12	from Joseph O'Neil?	12	owed him at the time that you listed his law firm?
13	A. Yes.	13	A. I really don't.
14	Q. Have you seen that document before?	14	Q. Prior to you filing bankruptcy, can you tell
15	A. Yes.	15	me what other legal fees you incurred in connection with
16	Q. Do you recall when the first time was that you	16	the Heller matter other than fees to Mr. Aceto's law
7	saw this letter?	17	firm?
8	A. No.	18	MR. ACETO: Relating to the Heller matter
19	Q. Do you believe it was shortly after March 6,	19	only or any legal fees?
	2003?	20	MR. TUMILTY: We'll start with Helier and
	A. I would think so.	21	then go broader.
22	Q. Do you believe it was within a week of March	22	BY MR. TUMILTY:
	6, 2003?	23	A. I don't remember any other law firm being
73	0, 2000,	1	
23 24	A. I just don't know.	24	involved with the Heller matter. As I sit here today

[Case 1::05-cv-11128-NG Document	70-4 6	Filed 11/10/2006 Page 19 of 28
1	would guess that it would be just whatever I owe to the	1	entered into with Heller resolve both the negligent
2	Aceto law firm.	2	misrepresentation claim that they had brought and the
3	Q. I know you identified earlier that you had	3	breach of guaranty claim?
~	been deposed in a different pieces of litigation and	4	A. In terms of their claim against me?
: مد	weren't exactly sure of the years in which those	5	Q. Yes.
6	happened. Were there other legal fees that you were	6	A. Yes.
7	incurring in say the year or two years leading up to	7	Q. Did the settlement with Heller include both
8	when you filed bankruptcy?	8	you and your wife?
9	A. No. That was covered.	9	A. Yes. I'm pretty sure it was my wife. Yes,
10	Q. Can you tell me what the ultimate outcome of	10	her name is in here.
11	the Heller action was with respect to you?	11	Q. Do you know how many settlement agreements you
12	A. We reached a settlement in the bankruptcy	12	entered into with Heller with respect to the litigation
13	court in Florida, and I had to come up with \$250,000.	13	against you?
14	And it was split up between creditors, and how much	14	A. I thought it was just this.
15	Heller got I think was something like, something in	15	Q. I'm not suggesting there was another one.
16	excess of \$100,000.	16	A. No, I think this is it.
17	MR. TUMILTY: We'll mark this next.	17	 Q. To your knowledge, there isn't another
18	(Document marked for identification as	18	settlement agreement between yourself and Heller?
19	Exhibit No. 12.)	19	A. No.
20	BY MR. TUMILTY:	20	Q. I can't remember what number you said went to
21	Q. I've handed you a document that the court	21	Heller, I think you said in the range of 110, 120,000?
22	reporter marked as Exhibit 12. It's a multi-page	22	A. It's in the settlement agreement.
23	document, Bates numbers 0112 through 0130. Is that the	23	Q. I'm not trying to put words in your mouth.
24	settlement agreement you were just referring to?	24	The amount that went to Heller, that's encompassed
	70	,	72
1	A. Yes.	1	within the \$250,000 total?
2	Q. Do you know where the funds came from to fund	2	A. Yes.Q. Do you know what other creditors were paid off
3	the settlement in the bankruptcy case?	3	Q. Do you know what other creditors were paid off pursuant to the settlement agreement that's been marked
4	A. They all came from different sources, myself	5	as Exhibit 12?
5	and my wife. We sold, we were forced to sell our house	6	A. I don't think anyone has been yet.
6	in Florida and pulled some cash out of that. That in	7	Q. Do you know if Heller has been paid under that
7	part was used. We later refinanced a house in	8	settlement agreement?
8	Massachusetts and pulled cash out of that. It was all	9	A. Well, I don't know how I know this, but I
9 10	Q. Do you know if any of the monies used to fund	10	think recently I heard the monies hadn't been
11	the settlement with Heller came from places other than	11	distributed. I think the case of Foster, as part of the
12	assets that were considered part of your bankruptcy	12	settlement agreement, I think he got his money up front
i dir	appear the rect contracted part of jour parint apear		
	estate?	13	But I think he's the only one. To the best of my
13	estate? MR. ACETO: Objection.	13 14	knowledge, nothing has been distributed.
13 14	MR. ACETO: Objection.		
13	MR. ACETO: Objection. BY MR. TUMILTY:	14	knowledge, nothing has been distributed.
13 14 15	MR. ACETO: Objection. BY MR. TUMILTY:	14	knowledge, nothing has been distributed. Q. Do you know who is responsible for
13 14 15 16	MR. ACETO: Objection. BY MR. TUMILTY: A. You mean like borrowing from someone else?	14 15 16	knowledge, nothing has been distributed. Q. Do you know who is responsible for distributing those settlement funds?
13 14 15 16 17	MR. ACETO: Objection. BY MR. TUMILTY: A. You mean like borrowing from someone else? Q. Yes.	14 15 16 17	knowledge, nothing has been distributed. Q. Do you know who is responsible for distributing those settlement funds? A. I guess the trustee.
13 14 15 16 17	MR. ACETO: Objection. BY MR. TUMILTY: A. You mean like borrowing from someone else? Q. Yes. A. No.	14 15 16 17 18	knowledge, nothing has been distributed. Q. Do you know who is responsible for distributing those settlement funds? A. I guess the trustee. Q. The bankruptcy trustee?
13 14 15 16 17	MR. ACETO: Objection. BY MR. TUMILTY: A. You mean like borrowing from someone else? Q. Yes. A. No. Q. So all the funds that were used to pay the	14 15 16 17 18 19	knowledge, nothing has been distributed. Q. Do you know who is responsible for distributing those settlement funds? A. I guess the trustee. Q. The bankruptcy trustee? A. Yeah.
13 14 15 16 17 18 19	MR. ACETO: Objection. BY MR. TUMILTY: A. You mean like borrowing from someone else? Q. Yes. A. No. Q. So all the funds that were used to pay the Heller settlement came in some fashion or another from	14 15 16 17 18 19 20	knowledge, nothing has been distributed. Q. Do you know who is responsible for distributing those settlement funds? A. I guess the trustee. Q. The bankruptcy trustee? A. Yeah. MR. TUMILTY: We'll mark this as Exhibit
13 14 15 16 17 18 19	MR. ACETO: Objection. BY MR. TUMILTY: A. You mean like borrowing from someone else? Q. Yes. A. No. Q. So all the funds that were used to pay the Heller settlement came in some fashion or another from assets that were either yours or your wife's?	14 15 16 17 18 19 20 21	knowledge, nothing has been distributed. Q. Do you know who is responsible for distributing those settlement funds? A. I guess the trustee. Q. The bankruptcy trustee? A. Yeah. MR. TUMILTY: We'll mark this as Exhibit 13.

	Case 1:05-cv-11128-NG Document	70-4	Filed 11/10/2006 Page 20 of 28
1	Q. Mr. Ingoldsby, I hand you what the court	1	BY MR. TUMILTY:
2	reporter has marked as Exhibit 13. It's your First	2	Q. In the same exhibit, Exhibit 13, paragraph 18,
3	Amended Complaint in Intervention in this action. Have	3	please review that paragraph to yourself.
U	you seen that document before?	4	A. Okay.
	A. Yes.	5	Q. It states, "Upon information and belief,
6	Q. Did you review that document before it was	6	International failed to fully advise MHCS regarding the
7	filed?	7	language of the alleged exclusion and the effective said
8	A. Yes.	8	exclusion on MHCS's liability coverage under the
9	Q. Please turn to paragraph 15 on page four. You	9	policy."
10	see it starts with Exclusion 4H?	10	Do you know what the basis is for that
11	A. Um-hum, okay.	11	paragraph?
12	Q. Is it your understanding that the language of	12	A. Yes. I mean, I had what I thought was a
13	that provision is at least one of the reasons that	13	long-term relationship with International. We had been
14	National Union has put forth as a basis for denying	14	buying our insurance from them probably since 1990.
15	coverage to you in the Heller matter?	15	They obviously had, you know, an obligation to advise me
16		16	of things.
17	and the state of t	17	I never knew anything about such an exclusion.
	Q. I'm not asking you to agree with it. I'm asking if you have that understanding?	18	I think International or National, someone, owed me an
18 19		19	explanation, and they should have brought it to my
		20	attention.
20	Q. If I refer to that as a contractual liability exclusion for purposes of this deposition, can we agree	21	Q. You don't know for a fact that International
21	that's what I'm referring to?	22	did not bring it to the attention of either Pamela Jones
22		23	or Indy Edwards, do you?
23	A. Okay.Q. If you look at paragraph 19, it states, "The	24	A. No, I don't know.
24	Q. If you look at paragraph 19, it states, "The	 	76
,	language of exclusion 4H, as amended, significantly	1	MR. TUMILTY: We'll mark that as the next
1	decreased, if not altogether eliminated, the value of	2	exhibit.
2	the policy to MHCS by excluding any claims arising from	3	(Document marked for identification as
3	contractual liability," do you see that?	4	Exhibit No. 14.)
4		5	BY MR. TUMILTY:
5 6	A. I do. Q. Do you agree with that?	6	Q. I've handed you what the court reporter has
		7	marked as Exhibit 14. If you could take whatever time
7		8	you need and look through that document.
8	Q. And can you explain to me how the language of Exclusion 4H would do what is alleged in paragraph 19?	9	A. I recognize it.
9	The second secon	10	Q. Exhibit 14 is a multi-page document bearing
10	A. Well, basically it reduces the policy. You pay \$25,000 for it and you get nothing, absolutely	11	Bates numbers 0131 through 0199. I will represent to
11	nothing for it. I don't think it can be any clearer	12	you that it is a document that was produced by your
12	than that.	13	counsel on your behalf in this action. You said you
13		14	recognized this document?
	Q. To your knowledge, would MHCS have purchased a directors and officers liability policy with that type	15	A. Yes, it's an insurance policy, directors and
15	of exclusion in it?	16	officers policy from National Union.
16		17	Q. You'll see on the front page of Exhibit 14
17	A. Never. I didn't know about it. MR. ACETO: I would like to talk to him	18	that there's a policy period listed under item 3.
18		19	A. Yes.
19	for a moment. (Witness confers with counsel.)	20	Q. And it's August 4, 2000 to August 4, 2001?
	`	21	A. Yes.
	MR. ACETO: He would like to clarify the	22	Q. Would you agree with me that this is the
	answer he gave after talking with me about it.	23	policy immediately preceding the policy that's at issue
22		- A	- Donot introduction presentation for the presentation of the pres
23 24	MR. TUMILTY: I'll just move on. MR. ACETO: Okay.	24	in this case?

	Case 1:05-cv-111128-NG Document	7 10-4	Filed 11/10/2006 Page 21 of 28
	77		79
1	A. The policy that is at issue?	1	policies issued by National Union?
2	Q. No, the one before that, the one for the prior	2	A. Correct.
3	year?	3	Q. Are you also contending the policies did not
ł :	A. I'm really not sure how to answer that. I	4	contain a contractual liability exclusion?
	mean, are you talking about the year prior to the time	5	A. No, I'm not.
6	that Heller sued?	6	Q. If you would turn to page, they are Bates
7	Q. Let me come about it a different way. In this	7	numbered in the middle, and go to page 0176. You'll see
8	case, you're contending that a policy from National	8	that at the top of that page it says Endorsement 1?
9	Union provided coverage to you for the Heller action?	9	A. Okay.
10	A. Correct.	10	 Q. And if you go to the second paragraph, there
11	Q. Do you know for what year that policy was in	11	is a subparagraph F, do you see that?
12	effect?	12	A. Yes.
13	A. No, I don't recall.	13	 Q. Do you know if you reviewed this paragraph at
14	Q. For purposes of this deposition, I'll	14	the time you received a copy of Exhibit 14?
15	represent to you that the policy that's in front of you,	15	A. No.
16	Exhibit 14, is the one for the prior year.	16	Q. Please turn to page 0196. It says Endorsement
17	A. Okay.	17	5 at the top?
18	Q. Would you have gotten a copy of this policy?	18	A. Yes.
19	A. Yes.	19	Q. There's a Roman numeral two, Amendments to
20	Q. When you would get copies of the directors and	20	Exclusions, do you see that?
21	officers policies, you were a named insured on them,	21	A. Yes.
22	correct?	22	Q. Do you know if you read the text that's in II
23	A. I believe so.	23	at the time you received a copy of Exhibit 14?
24	Q. When you would get copies of policies that had	24	A. I don't remember ever seeing it.
	. 78		80
1	been issued by National Union, would you read them?	1	Q. You're free to look at the exhibit if you need
2	A. Yeah, but I wouldn't read every word.	2	to, but the two exclusions that I just showed you, were
3	Q. Would you discuss them with anyone?	3	you aware of their existence prior to me just showing
4	A. I don't think I did.	4	them to you right now?
5	Q. You didn't discuss them with Pamela Jones or	5	A. Yes.
6	Indy Edwards?	6	Q. When did you first become aware of their
7	A. No.	7	existence?
8	Q. Did you discuss them with anyone at IIG?	8	A. Sometime after National Union declined
9	A. No.	9	coverage.
10	Q. Did you discuss them with an attorney at that	10	Q. Prior to the time that you filed bankruptcy?
11	time?	11	A. Yes, I'm pretty sure that's the case.
12	A. Not at that time.	12	MR. TUMILTY: I'll have this marked next.
13	Q. I believe it's been your testimony that to	13	(Document marked for identification as
14	your knowledge none of the directors and officers	14	Exhibit No. 15.)
15	liability policies that National Union issued to or	15	(Brief recess.)
16	provided to MHCS contained a contractual exclusion as we	16	BY MR. TUMILTY:
17	saw it alleged in your Complaint?	17	Q. I'm handing you a copy of what the court
18	A. I don't think that's what I said. I said I	18	reporter marked as Exhibit 15. It's a multi-page
19	never knew at the time or I wouldn't have paid the	19	document Bates numbered 0200 through 0271. Do you
"	\$25,000 or I wouldn't have allowed our company to spend		recognize that document?
1	\$25,000.	21	A. I think so.
22	Q. This is an important point, so I want to make	22	Q. I'll represent to you that it's a document
23	sure it's clear. Your testimony is you never knew that	23	that was produced to us in this case by your counsel on
24	a contractual liability exclusion may have been in the	24	your behalf.
144	2/2006 08:07:13 PM Page 77 t		

	Case 1:05-cv-111128-NG Document	7 0-4	Filed 111/10/2006 Page 22 of 28 83
1	A. Okay.	4	\$25,000 and neither one of them could tell me anything
2	Q. Maybe that's why it has the Bates numbers in	2	that we would get for that \$25,000. Just about anything
3	this particular format there. Can you tell me what it	3	that, almost, I can't think of anything that doesn't
-	is?	4	somehow tie into a contract. So it was that kind of
	A. It's a policy issued by National Union to	5	discussion.
6	Managed Healthcare Systems. It's a directors and	6	Q. Did either Pamela Jones or Indy Edwards
7	officers insurance policy.	7	indicate to you that they were aware that that provision
8	Q. On the front page, there's a section item 3,	8	or a provision like that was in the policy?
9	policy period August 4, 2001 through August 4, 2002?	9	A. I don't remember.
10	A. Yes.	10	Q. Did either Pamela Jones or Indy Edwards ever
11	Q. Have you seen a copy of this before?	11	indicate to you that they had discussed that type of a
12	A. Yes.	12	provision, mainly a contractual exclusion provision,
13	Q. Did you see a copy on or about the time the	13	with anyone from International?
14	policy was issued?	14	A. I don't remember.
15	A. I'm sure that I saw it sometime after it was	15	Q. Do you believe that the claims that Heller
16	issued. A copy would have been sent to me.	16	asserted against you in the Heller action were somehow
17	Q. Would it have been your practice to read a	17	related to a contract?
18	copy of the policy when you received it?	18	A. Well, I think that the breach of guaranty was
19	A. Not thoroughly but I would peruse.	19	not relating to the contract because there is no, there
20	Q. Please turn to page 0247. You'll see it says	20	was no guaranty. So to that one I would say no. If
21	endorsement No. 1 at the top and there's a No. 10,	21	they could produce a written guaranty, then I would be
22	Clause 4, do you see that?	22	proven wrong. There isn't such a document.
23	A. Yes.	23	As far as the negligence is concerned, I think
24	Q. And under that, there's a subsection F, do you	24	that, I know that there was not any negligence. I think
- -	82		84
1	see that?	1	it's how National Union chooses to interpret this is my
2	A. Yes.	2	subject. I think it should be covered. You can't
3	Q. Please review that to yourself.	3	what good is the policy? You are basically taking
4	A. Okay.	4	25,000, and I can't come up with a single thing that
5	Q. Do you know if you reviewed that section when	5	would be covered. That's how I feel about it.
6	you first received a copy of Exhibit 15?	6	And that's what I told them after the
7	A. No, I don't believe I did.	7	rejection from National Union came. And they couldn't
8	Q. Do you have any memory of discussing Exhibit	8	think of anything that would be covered either.
9	15 with either Pamela Jones or Indy Edwards?	9	MR. ACETO: By them, you mean Pam and Indy
10	A. No. I would like to correct that. I did not	10	Edwards?
11	until after the suit was filed and National Union	11	THE WITNESS: Right.
12	responded with the denial coverage. Then we did discuss	12	BY MR. TUMILTY:
13	it.	13	Q. I understand that's how you feel about it and
14	Q. Did you discuss Exhibit 15 with both Indy	14	that's what you believe. You've already answered with
15	Edwards and Pamela Jones?	15	respect to the breach of guaranty count. I know you've
16	A. Probably, but I don't know.	16	said in your mind there was no negligence to support the
17	Q. Tell me what you remember about discussing	17	negligent misrepresentation count.
18	Exhibit 15 with either Pamela Jones or Indy Edwards.	18	Do you believe the negligent misrepresentation
19	A. This, of course, was after the response from	19	count was somehow related to or based on a contract?
20	National Union.	20	I'm not asking you to agree there was negligence but
1	Q. I understand.	21	just what your view of that count is. What do you think
22	A. I remember talking about how National Union	22	that related to?
23	really chose to interpret that section and that	23	A. I don't know. I hadn't thought of it that
24	basically the policy was worthless. We had spent	24	way. I think that if you want to really go strictly
	34 sheets Page 81 to	<u> </u>	

Case 1:05-cv-11128-NG Document 70-6 Filed 11/10/2006 Page 23 of 28

as National Union is choosing to go, you can say

- everything is a contract. You can say, yeah, it's 2
- 3 contractual.

I mean, if we had a liability for, I don't know, for a janitor that did something wrong, you had a

- contract to clean the offices -- nothing is covered. 6
- That's my problem. When I look at it, I just think, I 7
- don't know what you're trying to get me to say -- I
- don't know. All I know is that the whole thing is a 9
- 10 joke, total joke.
- 11 Q. All I was trying to get you to say was
- whatever your view was on that first count. 12
- 13 That's my view.
- MR. TUMILTY: We'll mark this next. 14
- (Document marked for identification as 15
- 16 Exhibit No. 16.)
- BY MR. TUMILTY: 17
- I've handed you a copy of what was marked as 18
- Exhibit 16. It's entitled Affidavit of Michael 19
- 20 Ingoldsby. There are certain exhibits attached to it.
- 21 Do you recognize that document?
- 22 A. Yes.
- 23 Please turn to page six of Exhibit 16. Is O
- 24 that your signature on that page?

86

- 1 Yes. Α.
- 2 Did you review this? Q.
- 3 I did.
- 4 If you would please turn to the second page. O
- 5 A.
- 6 O You see there's a sentence at the top of that
- page that says, "In fact, I have not been involved in 7
- 8 the operations of MHCS since 1999 due to a medical
- 9 condition which disabled me," do you see that?
- 10 A. Yes.
- 11 Is there any other medical condition that has
- disabled you from 1999 other than what you told me about 12
- 13 this morning?
- 14 Well, I've had some cardiac issues and have
- had six angioplasties from 2003, 2005. In addition to 15
- 16 the ones I told you, I think that's it.
- 17 Q. If you would look at paragraph five, that's
- 18 consistent with your testimony today, correct?
- Well, I didn't do personal business with 19
- International or National. I mean, initially

International was introduced to me by, it was either one

22 of two people.

10/22/2006 08:07:13 PM

- 23 I don't really remember which of the two. I
- think they both knew Jack Perkins. I know that they

- introduced me to International probably around 1990 and 1
- had made the introduction because they thought that 2
- International was someone who could really help a 3
- 4 arowing business.

Quite frankly, I think that's the only time I 5

met them. I don't even remember who it was that I met R

at the time but -- so somewhere around 1989, '90, '91 7

is the time I met them. But after that time, I didn't R

- have any dealings with them. 9
- Q. As it says in paragraph five, you weren't 10 involved in MHCS's procurement of insurance coverage, 11
- 12 were you?

13

20

21

- A. I was not.
- 14 Please review paragraph ten to yourself.
- 15 Okay. Α.
- Where it says in the second sentence of that 16 O. 17 paragraph, "In addition, a copy of the policy I received
- was not bound," do you remember who you received a copy 18
- 19 of the policy from?
 - It would have crom from Managed Healthcare, either Indy Edwards or Pam Jones.
- 22 For insurance policies that National Union
- 23 issued to MHCS, when you would receive copies of those,
- 24 were they usually bound?

- I don't remember. I do know the former 1
- insurance company, their copies were always bound. I 2
- think that this is probably just a copy that someone 3
- 4 from the office made.
- Do you believe that the copy that you received 5
- was a copy that someone at the MHCS office had made and 6
- 7 then sent to you?
- 8 A. Oh, yes.
- 9 Can you tell me what the basis is for the
- first sentence in paragraph ten of your affidavit? 10
- The copy that I got didn't have that 11
- endorsement. When I wrote this up, that was my belief, 12
 - that wasn't there. I think that's all that means.
- It's your testimony that the copy you received 14
- did not have Endorsement 8. Do you know for a fact 15
- whether the copy that was provided by IIG to MHCS 16
- included a copy of Endorsement 8? 17
- I later learned that it was included. 18 Α.
- 19 In preparing this affidavit, leaving your
- attorney aside, did you obtain information from anyone 20
- 21 else so you could prepare this affidavit?
- 22 I'd have to go through and see the content to
- see. I could have contacted the law firm in Florida 23
 - that represented me to get information. I think mostly

24

13

88

	Case 1:05-cv-11128-NG Document	70-4 6	Filed 11/10/2006 Page 24 of 28
- Vi-	it would have been with counsel.	1	Q. Is that the notification we were talking about
2	Q. If you look at page two in paragraph five,	2	earlier today?
3	given that you were not involved in the procurement of	3	A. Yes.
	insurance coverage by MHCS, I'm wondering how you knew	4	Q. To the best of your memory, have you told me
ω ^r	the information contained in paragraph seven and eight,	5	everything you recall about discussions with the
6	do vou recali?	6	bankruptcy trustee about any claims by you against
7	A. I don't know specifically. After the fiasco	7	National Union?
8	we had with this when we didn't have the appropriate	8	A. I think I've been clear. That subject was
9	insurance, as an owner of the company, I demanded they	G	disclosed. It was not something that anyone really saw
10	get it and get it in place. And I knew it was in place.	10	as an asset. And he didn't either. I remember it just
11	Q. Page three, paragraph 16 on the next page, I	11	being dropped.
12	take it that at the time the first sentence of paragraph	12	Q. I wasn't suggesting you weren't clear. I was
13	16 was prepared you were not aware that Endorsement 8	13	wondering whether during the course of today given the
14	actually was in the copy of the policy provided to MHCS?	14	questions you answered if there was anything else you
15	A. That's correct. If I had known that nothing	15	remembered discussing with the bankruptcy trustee?
16	was covered for 25,000, I would have insisted that the	16	A. No.
17	company do something about it.	17	Q. If you go to paragraph 35, the \$100,721 in
18		18	legal fees that's referenced there, were those legal
19	Q. If you look at paragraph 20 on the next page, page four?	19	fees incurred in connection with your bankruptcy?
		20	A. Yes.
20 21		21	Q. Paragraph 36 where it refers to the sale of
		22	your residence in Osprey, Florida
22	the \$19,396.24, was the total amount of legal fees you	23	A. Yes.
23	incurred in the Heller action?	24	Q what was the sale price of that
24	A. No. I think, I don't know for sure. But I	24	92
1	90 know there are monies in addition to that that I wasn't	1	transaction?
2	able to pay to Greg Aceto's firm that are still	2	A. 1,399,000.
3	outstanding. I'm assuming that those are monies that	3	Q. Resulting in a total loss of \$536,688. How
4	were paid to his firm.	4	was that amount calculated?
5	Q. I'm hoping you can clarify something for me on	5	A. The difference between what I sold it for and
6	paragraph 21. Where it says "as a result thereof," do	6	what it was appraised for maybe three to six months
7	you know what that's referring to?	7	before then. It was appraised for a million 750, and I
8	A. Because of the Heller suit and because	8	put it on the market for that price and had to drop and
9	National chose not to provide coverage for this, I was	9	drop. I needed the cash. I have all those appraisals.
	•	10	Q. Do you recall how much you paid for the house
10	left with no choice. I was facing insurmountable	11	in Florida?
11	liabilities. It was as a result of all that litigation.	12	A. A million one.
4 ^	 I just wanted to starify that the "ac a recult 	14	• • • • • • • • • • • • • • • • • • • •
	Q. I just wanted to clarify that the "as a result	4.3	
13	of" wasn't referring simply to the \$19,000 in legal	13	Q. The last sentence of paragraph 36, was the
13 14	of" wasn't referring simply to the \$19,000 in legal fees?	14	amount of the additional indebtedness that you added to
13 14 15	of" wasn't referring simply to the \$19,000 in legal fees? A. Oh, no.	14 15	amount of the additional indebtedness that you added to your home in Hingham, was that \$250,000?
13 14 15	of" wasn't referring simply to the \$19,000 in legal fees? A. Oh, no. Q. With respect to the Heller litigation, do you	14 15 16	amount of the additional indebtedness that you added to your home in Hingham, was that \$250,000? A. Yes.
13 14 15 16	of" wasn't referring simply to the \$19,000 in legal fees? A. Oh, no. Q. With respect to the Heller litigation, do you know approximately how much in legal fees you had	14 15 16 17	amount of the additional indebtedness that you added to your home in Hingham, was that \$250,000? A. Yes. Q. Why was that additional indebtedness added to
13 14 15 16 17	of" wasn't referring simply to the \$19,000 in legal fees? A. Oh, no. Q. With respect to the Heller litigation, do you know approximately how much in legal fees you had incurred prior to the time you filed for bankruptcy?	14 15 16 17 18	amount of the additional indebtedness that you added to your home in Hingham, was that \$250,000? A. Yes. Q. Why was that additional indebtedness added to your home in Hingham at that time?
13 14 15 16 17	of" wasn't referring simply to the \$19,000 in legal fees? A. Oh, no. Q. With respect to the Heller litigation, do you know approximately how much in legal fees you had incurred prior to the time you filed for bankruptcy? A. You'd have to get that from Greg Aceto's	14 15 16 17 18 19	amount of the additional indebtedness that you added to your home in Hingham, was that \$250,000? A. Yes. Q. Why was that additional indebtedness added to your home in Hingham at that time? A. Well, I needed not only the money for the
13 14 15 16 17	of" wasn't referring simply to the \$19,000 in legal fees? A. Oh, no. Q. With respect to the Heller litigation, do you know approximately how much in legal fees you had incurred prior to the time you filed for bankruptcy? A. You'd have to get that from Greg Aceto's office.	14 15 16 17 18 19 20	amount of the additional indebtedness that you added to your home in Hingham, was that \$250,000? A. Yes. Q. Why was that additional indebtedness added to your home in Hingham at that time? A. Well, I needed not only the money for the settlement, I had legal fees, I don't remember what the
13 14 15 16 17 18	of" wasn't referring simply to the \$19,000 in legal fees? A. Oh, no. Q. With respect to the Heller litigation, do you know approximately how much in legal fees you had incurred prior to the time you filed for bankruptcy? A. You'd have to get that from Greg Aceto's office. Q. If you look at paragraph 31, there's a	14 15 16 17 18 19 20 21	amount of the additional indebtedness that you added to your home in Hingham, was that \$250,000? A. Yes. Q. Why was that additional indebtedness added to your home in Hingham at that time? A. Well, I needed not only the money for the settlement, I had legal fees, I don't remember what the balance to be paid was. I had tapped out a home equity
13 14 15 16 17 18 19	of" wasn't referring simply to the \$19,000 in legal fees? A. Oh, no. Q. With respect to the Heller litigation, do you know approximately how much in legal fees you had incurred prior to the time you filed for bankruptcy? A. You'd have to get that from Greg Aceto's office. Q. If you look at paragraph 31, there's a reference there to notification to the bankruptcy	14 15 16 17 18 19 20 21 22	amount of the additional indebtedness that you added to your home in Hingham, was that \$250,000? A. Yes. Q. Why was that additional indebtedness added to your home in Hingham at that time? A. Well, I needed not only the money for the settlement, I had legal fees, I don't remember what the balance to be paid was. I had tapped out a home equity line that I had to pay off. I was basically robbing
12 13 14 15 16 17 18 19 	of" wasn't referring simply to the \$19,000 in legal fees? A. Oh, no. Q. With respect to the Heller litigation, do you know approximately how much in legal fees you had incurred prior to the time you filed for bankruptcy? A. You'd have to get that from Greg Aceto's office. Q. If you look at paragraph 31, there's a	14 15 16 17 18 19 20 21	amount of the additional indebtedness that you added to your home in Hingham, was that \$250,000? A. Yes. Q. Why was that additional indebtedness added to your home in Hingham at that time? A. Well, I needed not only the money for the settlement, I had legal fees, I don't remember what the balance to be paid was. I had tapped out a home equity

damages you believe that you've suffered as a result of

2 National Union's decision not to provide coverage for

you in the Heller action, basically what damages you're seeking in this case?

MR. ACETO: Aside from what you already covered or do you want him to list everything again?

MR. TUMILTY: I'd like the full list.

8 BY MR. TUMILTY:

6

7

9

10

11

12

13

14

17

18

19

20

21

22

23

24

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

You don't have to go into detail on the things you told me about, but I would like a full list. I want to have an understanding of what you believe your damages are.

MR. ACETO: Rather than dollar figures, you want categories of what the damages are?

MR. TUMILTY: Sure. 15

16 BY MR. TUMILTY:

> You can say I believe I've been damaged because I had to sell my home and go down a list or give me the dollar numbers as you go, however you want to do it.

My life has changed completely. Going back to the time prior to the Heller action, we had a very valuable entity in that company. It should never have been converted in the bankruptcy court. There is a

1 direct link.

> When you lose your main asset -- I lost about a million eight in loans that just went poof and disappeared. It never should have happened. It was largely due to the positioning of Heller, which I happen to know why they did what they did and so do the other officers of the company.

> But when that happened and I didn't have someone to stand beside me when I thought I had coverage, because I really needed to fight these people, because I think they are bad guys, and I think the people that worked with me were honest and straightforward.

There was no game playing. I assure you there was never any negligence. If there was, I would be very, very surprised. But not to have someone stand beside me caused me, I became very severely depressed. I had a lot of angina and ended up with six angioplasties. I'm on a ton of medication.

I'm 60 years old. Just last week my wife and I sold our house in Hingham. We are trying to put together our retirement. We are renting until we are 22 able to get back on our feet. Not being able to stand 23 up to the bad guys of Heller caused me to, caused me all

of these health-related issues. 1

2 level of confidence that you have at the same time. I 3

think that. I think it's not just what I spent, I think 4

it's a life that's ruined that just needed to have 5

someone stand beside them to fight off people that ß

needed to be fought off. And I ran out of gas and my 7

8 body pretty much ran out of gas.

I used to be a pretty affluent guy and I'm not

When you're drained financially, you lose any

10 now.

Q

16

17

18

19

22

23

24

9

12

14

15

16

17

18

19

20

21

22

23

24

94

11 MR. ACETO: Do you want him to go through the damages listed in the affidavit, more of the special 12 13 damages?

MR. TUMILTY: I'll go a piece at a time. 14

15 BY MR. TUMILTY:

> Q. I'm not trying to minimize anything. When you say it's worth a lot, what do you think that's worth? MR. ACETO: What he just described from the prior answer?

20 MR. TUMILTY: Yes.

21 BY MR. TUMILTY:

> I think that if someone had stood beside me and fought these guys, you know, I would be, I would probably be worth three or four or \$5 million right now,

because I don't think I would have lost. 1

And if you had to put an estimate on your net 2 worth right now, what would you say it is? 3

Somewhere in the neighborhood of \$500,000. 4

When you said there were \$5.8 million worth of 5

loans that went poof, were those loans from you to MHCS?

7 Δ. Yes.

8 Did you recover anything on those loans? Q.

A. No.

Then you said something along the lines of 10 O positioning by Heller, do you recall that? 11

> Um-hum. A.

What were you referring to? 13 Q.

It's a long story. If you want, I'll tell you the story. To try to make it as succinct as possible, this whole subject of negligence on the borrowing certificates is just the opposite. If anything, they were showing the two ladies that ran the company ways to create recognition of revenue streams.

The reason that Heller changed their stripes is because Pam Jones was such an honest person that she just wasn't comfortable doing what they said she could do. Although we were in bankruptcy at the time, Heller basically saw a company that was going to be able to

	97	שרטו	
1	fund the loans, there wasn't going to be a problem with	1	(Whereupon the deposition was suspended at
2	that, but they seemed to become they became very,	2	2:45 p.m.)
3	very aggressive with the bankruptcy judge. They did	3	
	things that were so out of character just to upset the	4	
J	judge.	5	
6	And one of the other partners from Edward and	6	
7	Angell, she knows they are bad guys. She despises them.	7	
8	I don't know if she would admit that now. They caused	8	
9	the bankruptcy judge to put the company in bankruptcy	9	
10	and they kept all the receivables. There's never been	10	
11	an accounting.	11	
12	The overline, which was the only part I	12	
13	guaranteed, which was about \$200,000, that was supported	13	
14	by the private receivables. It was in excess of	14	
15	200,000. Pam Jones and Indy Edwards both fully expected	15	
16	that that was all collected. If there was anything left	16	
17	on that guaranty of mine for that portion, we all would	17	
18	have been surprised.	18	
19	But they never gave us any accounting. And	19	
20	Heiler ended up where they collected all the	20	
21	receivables, and they saw an opportunity with this D & O	21	
22	policy to make it a bad pay day. And if I hadn't been	22	
23	so beaten down with this bankruptcy, I never would have	23	
24	signed that settlement agreement.	24	
-	98		100
1	The two ladies who signed affidavits that they	1	CERTIFICATE
2	were negligent, neither one of them believe it. They	2	
3	had such pressure on them from Heller, and they are both	3 4	I, MICHAEL INGOLDSBY, do hereby certify that I have read the foregoing transcript of my testimony, and
4	people that are, they are both divorced and scared to	5	further certify that said transcript is a true and
5	death. Heller was putting big time pressure on them.	6	accurate record of said testimony.
6	My wife was with me when we read the	7	Dated at this
7	settlement discussion, and they were just as mean as you	8	day of, 2006.
8	could imagine. She wanted to get away from it and we	9	
9	signed it and called it a day. Heller is not the good	10	
10	guy. I've lost my right to go after them. But that's	11	
11	why I needed to have someone stand beside me.	12	
12	Q. Can you explain to me what the overline is	13	MICHAEL INGOLDSBY
13	that you guaranteed?		
14	A. Heller would lend only on Medicare and	14	
15	Medicaid and I think government as well as Blue		
16	Cross/Blue Shield and insurances. They had a formula.		Signed under the pains and penalties of perjury.
17	We had another group of customers who were private pays.	16	
18	They don't lend against private pay.	17 40	
19	But in our case, they made an exception and	18 19	
	they made a separate loan on that particular component.	20	
.	But they made me guaranty that overline. And it was	21	
22	about 200,000.	22	
23	MR. TUMILTY: This is a logical place to	23	
24	break for the day.	24	

Case 1:05-cv-11128-NG Document	#1D-4	Filed 11/10/2006 Page 27 of 28 103
101 CERTIFICATE	1	COPLEY COURT REPORTING 58 Batterymarch Street, Suite 317
	2	Boston, Massachusetts 02110 617-423-5841
COMMONWEALTH OF MASSACHUSETTS	3	
PLYMOUTH, SS.	4	DATE: October 23, 2006
I, Patricia M. Haynes, a Notary Public in and		TO: Johnson & Aceto, P.C. ATT: Gregory J. Aceto, Esquire
for the Commonwealth of Massachusetts, do hereby		67 Batterymarch Street
certify:	6	Boston, Massachusetts 02110
That MICHAEL INGOLDSBY, the witness whose	7	IN RE: Ingoldsby VS National Union
testimony is hereinbefore set forth, was duly sworn by	8	
me and that such testimony is a true and accurate record		Dear Mr. Aceto,
of my stenotype notes taken in the foregoing matter, to	9	Enclosed herewith is your copy of the
the best of my knowledge, skill and ability.	10	transcript of the deposition of MICHAEL INGOLDSBY, take on Friday, October 20, 2006, in the above-mentioned case
IN WITNESS WHEREOF, I have hereunto set my	11	In compliance with applicable rules, the
hand and Notarial Seal this day of October 2006.	12	witness will read the transcript and sign the signature page and errata sheet and return them as soon as
,	13	possible to the respective attorneys involved. Any changes or corrections are to be made separately on the enclosed errata sheets signed by the witness.
	14	If the witness has not read and signed the
Datricia M. Haynes CSP	15	transcript and returned it to the parties involved within thirty days, the transcript will go in as
, .		testified to under oath
Notally Fublic	16	Thank you for your anticipated cooperation. If you have any questions, please feel free to call on
	17	me.
My commission expires July 30, 2010	18	Very truly yours,
My Collinission expires July 30, 2010	10	
	'-	Patricia M. Haynes
	20	
	21	CC: John J. Tumilty, Esquire
	22	Syd A. Saloman, Esquire
	23	
102	24	
ERRATA SHEET		
Please indicate the page number and line number along with the correction.		
1.		
3.		
4.		
5.		
6.		
8.		
	1	
9.		
9. 10.		
	COMMONWEALTH OF MASSACHUSETTS PLYMOUTH, SS. I, Patricia M. Haynes, a Notary Public in and for the Commonwealth of Massachusetts, do hereby certify: That MICHAEL INGOLDSBY, the witness whose testimony is hereinbefore set forth, was duly sworn by me and that such testimony is a true and accurate record of my stenotype notes taken in the foregoing matter, to the best of my knowledge, skill and ability. IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal this day of October 2006. Patricia M. Haynes, CSR Notary Public My commission expires July 30, 2010 ERRATA SHEET Please indicate the page number and line number along with the correction. 1. 2. 3. 4.	CERTIFICATE COMMONWEALTH OF MASSACHUSETTS PLYMOUTH, SS. I, Patricia M. Haynes, a Notary Public in and for the Commonwealth of Massachusetts, do hereby certify: That MICHAEL INGOLDSBY, the witness whose testimony is hereinbefore set forth, was duly sworn by me and that such testimony is a true and accurate record of my stenotype notes taken in the foregoing matter, to the best of my knowledge, skill and ability. IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal this day of October 2006. 13 Patricia M. Haynes, CSR Notary Public 16 My commission expires July 30, 2010 18 ERRATA SHEET Please indicate the page number and line number along with the correction. 1. 2. 3. 4. 5. 6.

15

16

17

18

19

12.

13.

14.

15.

16.

17. 18. 19.

	Case 1:05-cv-11128-NG	Document 7	70-6	
1	CERTIFICATE	101	1	COPLEY COURT REPORTING 58 Batterymarch Street, Suite 317
2	CERTIFICATE	n experience and a second	2	Boston, Massachusetts 02110 617-423-5841
3	COMMONWEALTH OF MASSACHUSETTS		3	
4	PLYMOUTH, SS.		4	DATE: October 23, 2006
t-p	I, Patricia M. Haynes, a Notary Public	in and		TO: Johnson & Aceto, P.C.
0	for the Commonwealth of Massachusetts, do		5	ATT: Gregory J. Aceto, Esquire 67 Batterymarch Street
7	certify;	,	6	Boston, Massachusetts 02110
8	That MICHAEL INGOLDSBY, the witner	ss whose	7	IN RE: Ingoldsby Rosanina VS National Union
9	testimony is hereinbefore set forth, was duly		8	
0	me and that such testimony is a true and acc		_	Dear Mr. Aceto,
1	of my stenotype notes taken in the foregoing		9	Enclosed herewith is your copy of the
2	the best of my knowledge, skill and ability.	, , ,	10	transcript of the deposition of MICHAEL INGOLDSBY, take
13	IN WITNESS WHEREOF, I have hereur	nto set my	11	on Friday, November 20, 2006, in the above-mentioned case
4	hand and Notarial Seal this day of October		12	In compliance with applicable rules, the witness will read the transcript and sign the signature
5	Traine and Motorial Bear cine 42, 1. 1 1112			nage and errata sheet and return them as soon as
J		OUT OF THE PARTY O	13	possible to the respective attorneys involved. Any changes or corrections are to be made separately on the
6		***************************************	14	enclosed errata sheets signed by the witness.
U	Patricia M. Haynes, CSR		15	If the witness has not read and signed the transcript and returned it to the parties involved
7	Notary Public			within thirty days, the transcript will go in as
,	Notary Fublic		16	testified to under oath Thank you for your anticipated cooperation.
8			17	If you have any questions, please feel free to call on
Ö	My commission avaires July 30, 2010		18	me.
^	My commission expires July 30, 2010		19	Very truly yours,
9				
0			20	Patricia M. Haynes
1			21	
2			22	CC: John J. Tumilty, Esquire Syd A. Saloman, Esquire
23			23 24	2,2, 2 2, ,
- 4		102	24	104
	ERRATA SHEET		1	**
2	Please indicate the page number and line number with the correction.	mber along		
3			2	
4	1.		3	
E	2.		4	
5	3.		5	
6	4.		6	
7	5.		7	
8			·	
9	6.		8	
_	7.		9	
0	8.		10	
1	9.		11	
2			12	
3	10.		13	
4	11.			
	12.		14	
5	13.		15	
6	14.		16	
7			17	
8	15.		18	
	16.			
9	17.		19	
	18.		20	
			21	
	19,			
	13,		22	
22	20.		22	
			İ	